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# HANSARD'S PARLIAMENTARY DEBATES:

THIRD SERIES,

COMMENCING WITH THE ACCESSION OF

WILLIAM IV.

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17° & 18° V I C T O R I Æ, 1854.

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VOL. CXXXIV.

COMPRISING THE PERIOD FROM

THE THIRTEENTH DAY OF JUNE

TO

THE TENTH DAY OF JULY, 1854.

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*Fifth Volume of the Session.*

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<b>THURSDAY, JUNE 15.</b>	
<i>London, City of</i> —Lord John Russell, Lord President of the Council, Re-elected.	
 <b>TUESDAY, JUNE 20.</b>	
<i>Morpeth</i> —Right Hon. Sir George Grey, Bart., Secretary of State for the Colonies, Re-elected.	



# HANSARD'S PARLIAMENTARY DEBATES,

IN THE

SECOND SESSION OF THE SIXTEENTH PARLIAMENT OF  
THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND,  
APPOINTED TO MEET 20 AUGUST, 1852, AND FROM THENCE  
CONTINUED TILL 31 JANUARY, 1854, IN THE SEVENTEENTH YEAR  
OF THE REIGN OF

HER MAJESTY QUEEN VICTORIA.

FIFTH VOLUME OF THE SESSION.

## HOUSE OF LORDS,

*Tuesday, June 13, 1854.*

MINUTES ] PUBLIC BILLS.—2<sup>d</sup> Divorce and Matrimonial Causes; High Treason (Ireland); Exchequer Bonds (£6,000,000).  
3<sup>d</sup> Nuisances Removal and Diseases Prevention Act further Amendment; Income Tax (No. 2); Industrial and Provident Societies.

### DIVORCE AND MATRIMONIAL CAUSES BILL.

ORDER of the Day for the Second Reading read.

THE LORD CHANCELLOR: My Lords, I now rise, in pursuance of notice, to ask your Lordships to give a second reading to the Bill which I had the honour to lay upon your Lordships' table ten days ago, for improving the law on the subject of divorce and matrimonial causes in general. This is a subject which has engaged the attention of the Legislature for a long period of years. It is, perhaps, rather a matter of antiquarian curiosity than of modern necessity, to trace the history of the law upon this subject. The changes that have occurred on this sub-

ject are curious and interesting. Prior to the time of the Reformation marriage was considered—as it still is in Roman Catholic countries—a sacrament, and therefore absolutely indissoluble. But, in order to effect by indirect means that which was not allowed to be effected directly, recourse was had to a number of expedients whereby, although marriages were never dissolved, and the law of divorce was unknown, sentences were pronounced which amounted, in effect, to sentences of divorce—decrees that the marriage had been from the beginning null and void. The consequence was, that marriages were rendered extremely insecure from the great variety of causes for which they might be thus in effect set aside. Among these causes was what was called precontract with some other person; and marriages were dissolved because the connection of the parties was within the degrees of consanguinity or affinity prohibited by the canon law. So far was the latter objection carried, that if the persons united in marriage were cousins in the eighth degree, the marriage could be set aside as being in the nature of an incestuous marriage; and

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it is stated by Lord Coke that in one pre-eminently absurd case the marriage was annulled because the husband had stood godfather to the second-cousin of his wife. Such were the ridiculous ways in which the absolute inviolability of marriage was evaded. The Reformation occurred. Upon that occasion, or very soon after, a Commission was issued, directed to thirty-two persons, sixteen lawyers and sixteen ecclesiastics, for the purpose of reforming the laws connected with the Church, and marriage being then considered entirely a matter of spiritual cognisance, that subject of course came under their consideration. The Commissioners recommended most extensive changes. The mysterious inviolability and indissolubility of marriage was entirely discarded, and the Commissioners recommended not only that marriages should be capable of being set aside for that for which the Scriptures warrant them to be set aside—namely, adultery—but also that they should be set aside for a great variety of causes which were enumerated, such as cruelty, grievous misconduct, and desertion. In point of fact, the recommendations of the Commissioners never did become law; but, nevertheless, what they recommended was, to a certain degree, so conformable to the feelings of mankind, that afterwards—during the latter part of the sixteenth or the early part of the seventeenth century—occasionally divorces did take place—divorces not only such as we now understand as divorces *a mensâ et thoro*, which are in truth mere separations with certain consequences attached to them, but divorces *a vinculo matrimonii*. I do not intend to trace the steps by which these divorces were effected; but may at once say that before the close of the seventeenth century, it became completely understood that though the ecclesiastical courts could grant divorces *a mensâ et thoro*—divorces which disentitled the husband to claim the cohabitation of his wife, or *vice versa*—yet they could not dissolve the bond of marriage so as to enable the parties to marry again. There was consequently at that time no means of obtaining divorces *a vinculo matrimonii*. Towards the close of the seventeenth or early in the beginning of the eighteenth century it began to be felt that the state of the law was such as to impose great hardships in particular cases; and it was felt that in cases, at all events, of the adultery of the wife, when it was impossible for the husband any longer

*The Lord Chancellor*

to cohabit with her, he ought to be able to put himself in the position of a single man again. Perhaps the most rational way to have met that grievance would have been at once to have legislated on the subject. There was a state of things which occasionally imposed a great hardship; and it may be thought that steps should have been taken to remedy it at once by legislation; but that was not done—it was not thought right to give to any tribunal the power of dissolving marriages—and the mode in which the evil was met was by what the Romans called a *privilegium*, or a special law for each particular case. Parties came before the Houses of Parliament and obtained for themselves, by Bill, the benefit of an enactment dissolving their marriage. Bills of this sort have not, however, been very numerous. I think during the last century there were about 100 of them. It is quite obvious that if it be desirable, as I firmly believe it is, to make it by no means easy to obtain a divorce, the proceedings of the Legislature upon such a subject should be fenced with every possible security. It was at the time when Lord Loughborough held the Great Seal that certain rules were introduced to your Lordships' House, which required, in every case of an application for a divorce, that the party seeking that divorce should come before your Lordships with a double evidence of his sincerity—first, by his having recovered a verdict at law in an action against the adulterer, and next, by his having obtained a divorce in the ecclesiastical courts, so far as those courts were competent to grant a divorce, namely, a divorce *a mensâ et thoro*. The matter then underwent a complete investigation here; for it has been the invariable practice of this House not to rely on the evidence given in the Ecclesiastical Courts, but to have the cases reinvestigated at your Lordships' bar. I need not say that that is an inquiry which is conducted with very great rigour, not merely to see that the fact of adultery has been clearly made out, but also to satisfy your Lordships that there has been no connivance or collusion on the part of the individual seeking redress. The Bill was then sent down to the House of Commons, where the proceedings in reference to it were not conducted in so regular or stringent a manner as at your Lordships' bar; and then it was passed into law, and the divorce was effected. Of such divorces, according to a Report published one or two years ago, there have

been during the present century up to the year 1852 about two a year.

But I think every one will be of opinion that this is a very unsatisfactory and unbecoming state of the law; because, however desirable it may be to prevent divorces, and to compel parties, if possible, to settle their differences and live together, yet if there are cases—I allude to cases of adultery—where it is impossible that this can take place, and where relief must be granted, it is very improper that that relief should be granted, not by the operation of any law that gives it to the party, but by reason of your Lordships' feeling that the want of such a law is so grievous that in each particular case you will make a law for the occasion. That is a state of things not creditable to any Legislature. It was owing to the pressure of that state of things that about three years ago—Christmas, 1850—when Lord Truro held the Great Seal, a Commission was issued to a great number of persons—some in your Lordships' House, some in the other House of Parliament, and some very learned civilians—to inquire into this matter, and to see what course they could recommend for the purpose of remedying the evil to which I have referred. That Commission made its Report in the last Session of Parliament; and it is in pursuance of that Report, with some very slight modifications, to which I will call your attention, that I have prepared the Bill which I have laid upon your Lordships' table. There were two classes of questions which had to be considered by those Commissioners. The first was, what are the class of cases in which it would be safe and proper to allow divorce by law; and, secondly, when that point had been settled, what is the tribunal to whom the decision of the question whether a divorce ought or ought not to be granted could be safely confided?—On the first subject the Commissioners came to the conclusion, in which I trust your Lordships will concur, that it is extremely expedient to confine the grounds of a divorce to those which your Lordships have hitherto, for the last century and a half, alone admitted to be good and valid. I allude, of course, to cases of adultery. It was proposed—at least the suggestion was made—that this did not afford relief in many cases in which it would be expedient that relief should be given. It was said that great cruelty, absolute desertion, and extreme incompatibility of temper, which are con-

sidered good grounds for a divorce in some countries, ought to be so considered in England; but the Commissioners came to the conclusion that that was a proposal not founded in good sense, and they expressed the opinion that, whatever may be the occasional unhappiness that arises in married life, and however much you may think, when you come to look at a particular case, that it would be desirable to have some mode of severing the knot in that and similar instances, the general interests of society were much better consulted by our adhering to the stringent rule which has so long prevailed in this country. That was the opinion of the Commissioners; and even if I differed, which I do not, from that conclusion, I nevertheless would not think of proposing any change to your Lordships—because I am perfectly certain that to propose such a change would be to propose something utterly impracticable, and opposed to the feelings and wishes of ninety-nine out of every hundred persons in the community. On this subject I cannot refrain from calling your Lordships' attention to the clear and lucid—I had almost said beautiful—language of Lord Stowell, in his judgment in *Evans v. Evans*—

“To vindicate the policy of the law,” says Lord Stowell, “is no part of the office of a Judge; but if it were, it would not be difficult to show that the law in this respect has acted with its usual wisdom and humanity—with that true wisdom and that real humanity that regards the general interests of mankind. For though in particular cases the repugnance of the law to dissolve the obligations of marriage may operate with great severity upon individuals, yet it must be carefully remembered that the general happiness of the married life is secured by its indissolubility. When people understand that they must live together, except for a very few reasons known to the law, they learn to soften by mutual accommodation that yoke which they know they cannot shake off, and they become good husbands and good wives from the necessity of remaining husbands and wives—for necessity is a powerful master in teaching the duties of life.”

I cannot possibly explain more clearly the view I take upon this subject, or the reasons why I have not thought of proposing that marriages should be dissolved for anything short of adultery. There is one other observation in addition to that which lies on the surface. If marriages could be dissolved for cruelty or desertion, the husband might dissolve his marriage whenever he pleases; he has only to be tyrannical to his wife, or to desert her, to effect the very object which he has in view. Therefore, I do not at all propose to alter

what has been—I will not say the law, because, in point of fact, there has been no law—but the practice on this subject. On the contrary, I intend to leave it as it is. There is one point which also engaged the attention of the Commissioners, and on which I am afraid that the course I propose to pursue may at first sight appear to be at variance with what has been the practice of your Lordships, and perhaps with the recommendations of the Commissioners. It is this—I do not propose, and the Commissioners have not recommended, that the wife should have the same relief on account of the adultery of the husband that the husband has on account of the adultery of the wife. Now, *primâ facie*, that seems a very unjust distinction; but observe what the want of it would lead to. If adultery on the part of the husband is to entitle him to a divorce, inasmuch as the husband—which may be bad morality, but it is the fact—suffers little on that account in the opinion of the world at large—for it is notorious that, while the wife who commits adultery loses her station in society, the same punishment is not awarded to the husband who is guilty of the same crime—he may, without any great sacrifice, on his own part, but by merely being a little profligate, and multiplying his acts of adultery, be able to effect his object. Therefore I confess I think the Commissioners came to a right conclusion when they abstained from recommending that the wife should be able to obtain a divorce on the same grounds as the husband. But there have been some extreme cases in which your Lordships have given relief to the wife. I allude to those instances in which the husband has not only been guilty of adultery, but of adultery added to the aggravated crime of bigamy or incest. In such cases it is, of course, impossible for the wife ever to pardon or live again with her husband; but it is not, perhaps, so in cases where there is not that aggravation. However, though the extreme cases to which I have referred are of very rare occurrence, I have thought it advisable to introduce a clause to the effect that in such cases the wife may be entitled to the same relief as the husband, and may obtain a divorce so as to enable her to marry again. There have been, I believe, only four cases of divorce at the instance of the wife; two of them were cases of incest, and the other two were cases which I have not found myself competent to frame any general enactment

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to meet—cases of that extreme fraud which it is impossible to provide for beforehand, and which must be dealt with as they occur. What I propose, therefore, is to constitute a tribunal for the purpose of giving a divorce *a vinculo matrimonii* in those cases in which relief is now obtained from the Legislature, and upon the same grounds which, for a century and more, have been the only grounds which have induced your Lordships to grant relief.

There is but one other question to consider, and that is, what is the tribunal to which this duty ought to be confided? I know that some doubts may be entertained with regard to my proposition on this point; and I will first state what the Commissioners recommend. The Commissioners say:—the Court of Chancery, in its present state, has all the elements of a good tribunal for dealing with this matter. Its form of pleadings, and its mode of procedure, as regulated and improved by the recent Statute, could readily be adapted to all the suggestions which we have pointed out above. But there is one great objection to it, and that is, that the entire dissolution of the marriage bond ought hardly to be left to the unaided decision of a single Judge. The Commissioners, therefore, recommend that this delicate and difficult function should be intrusted to three Judges—one a Vice Chancellor, one a common law Judge, and one an ecclesiastical Judge. That is the tribunal which the Commissioners recommend for granting divorces *a vinculo matrimonii*, divorces *a mensâ et thoro*, and, indeed, all matrimonial causes whatever. Now, I have considered this matter a good deal, and I do not think, with all deference to the very learned persons who were members of the Commission, that they have recommended the most expedient course. I will state to your Lordships why I do not think so. In the first place, with regard to divorces *a vinculo matrimonii*, I think it is important that not only all the talent, but all the rank and dignity possible, should be given to the court which is to decide upon such cases. To a certain extent it will be a substitute for the court of common law which tries actions of what is called *crim. con.*; for the ecclesiastical court which grants divorces *a mensâ et thoro*; and for your Lordships' House, which, in truth, is the court of last resort to which application is made. I propose, therefore, that a divorce court

should be constituted, to consist of five members, of which the Lord Chancellor and the Lord Chief Justice of the Court of Queen's Bench shall always be members, and the other members shall be the Master of the Rolls and two other persons, probably two learned civilians, to be named by the Queen; three to form a quorum. It appears to me that this is the best tribunal that can be constituted. It has been suggested by the Lord Chief Justice, that if the business of his court should increase, there might be great difficulty in his devoting sufficient time to it; but if there is any danger of this being the case, I shall have no objection to insert a clause in Committee by which one of two Justices may be substituted for the Lord Chief Justice when necessity required. The Bill contains a provision that, as the court will be sitting but seldom, the officers of the Court of Chancery shall be required to give their attendance on it. I also propose that all the evidence shall be taken *in voce*, because it is most essential that those matters should be always sifted to the very bottom. In cases, however, where a material witness may be abroad, the court will have the power to obtain his evidence by commission, if necessary. I propose to give to the court the power of probing the matters coming before it to the bottom, and, with that view, of adjourning cases from time to time, and hearing further evidence in regard to them—because the real difficulty in such cases will be not to prove the adultery but that there is no collusion, and that the parties have come fairly before the court with the honest view of obtaining relief. I propose, likewise, that the evidence shall be all taken by a shorthand writer; I think that is the best course that can be adopted; and, that being so, there will be before the court eventually all the evidence taken before them orally, and taken by a shorthand writer, as a sort of record. It would not, I think, be safe that there should not be an appeal somewhere from the decision of a court which had to deal with such delicate and difficult matters. At present, an appeal in cases of divorce *a mensâ et thoro* is to the Judicial Committee of the Privy Council; but I have thought it better, when we are dealing with cases so difficult and delicate as these, that the appeal from the divorce court should be to your Lordships' House, who could decide, upon hearing the evidence before them, whether the court had

come to a correct conclusion. I do not think that appeals will be very frequent, because the real question to be decided is generally whether there has been collusion or not. The Commissioners recommend that to the court of divorce should be confided the decision of all matrimonial questions. I propose that those matrimonial questions, short of cases of divorce *a vinculo matrimonii*, should be decided by the Court of Chancery. I have two reasons for taking that course. In the first place, I have great aversion, unless it is absolutely necessary, to multiply tribunals. I believe if this and the Testamentary Jurisdiction Bill should cast on the Court of Chancery more business than they can get through, the best remedy will be to constitute a new Vice Chancellor. I believe that it has been one of the misfortunes of this country, that we have had too much of what Jeremy Bentham called metaphysical divisions in the business of its courts. I am not one of those who think the desirability of what is called fusion is so great that it would be worth while to throw everything into confusion in order to get everything into a proper form for decision. I propose, therefore, that those minor matrimonial questions shall be best left to the Court of Chancery. I know that there is a popular feeling against the Court of Chancery in reference to its delays. I have already more than once stated that, although I am far from denying that there is often extreme delay in that court, that is almost always delay incurred in taking accounts in matters arising after there has been an adjudication. The adjudication in any matter is as quickly come to in the Court of Chancery as in any court in Her Majesty's dominions. I venture to say that without any fear of contradiction. But although I do not say that it may not be found necessary to create another branch of the Court of Chancery, if these cases are brought before it, there is one advantage that seems to me to countervail every other consideration; and it is this—that, in deciding questions *a mensâ et thoro*, they have to decide on the separation of husband and wife, and with the Court of Chancery rests now the decision of questions relating to the custody of every child in the kingdom. That Court, under certain circumstances, could take a child even from its father. I think, therefore, that the Court of Chancery is pre-eminently the tribunal to which ought

to be intrusted the decision of questions as to whether a husband and wife should or should not be separated. I do not like to refer to matters which have come before me judicially, but I may mention that very recently a case was heard before me which involved unfortunate differences between a gentleman and his wife living in Paris. They were foreigners in Paris, and the tribunals there decided that, according to the provisions of the *Code Napoleon*, they had no power to decree what was called a *separation de corps*; and they therefore remitted the parties to this country to seek a divorce *a mensâ et thoro*, which was the same as a *separation de corps*. At the same time, the tribunals in Paris held that they might exercise a jurisdiction in reference to what was to be done in the meantime, until the result of the suit in the Ecclesiastical Court in this country was known. There were two young children of this marriage residing with their mother in Paris, and the French tribunals made what we should call a sort of interim order that the children should continue with their mother until the proper tribunal in this country should decide the question of divorce. But then, supposing a divorce *a mensâ et thoro* was obtained in the English court, the parties were still left at sea as respected what was to be done with the children, and the father instituted a new proceeding in the Court of Chancery to obtain the custody of the children, and the parties in the case being very rich, a nominal sum in order to enable the Court of Chancery to exercise its jurisdiction was invested in the three per cents for the benefit of the children, and he (the Lord Chancellor) had to decide the question as to the custody of the children, while there was a proceeding pending in the Ecclesiastical Court, in the nature of a divorce *a mensâ et thoro*. He had been informed that the French tribunals would hardly believe that the same tribunal could not decide whether the parties were to live together, and which of them was to have the custody of the children; and I thought that nothing can be more rational and proper than that both questions should be decided by the Court of Chancery. It is on these grounds I have recommended that the jurisdiction over matrimonial causes not involving divorce *a vinculo matrimonii* should be confined to the Court of Chancery. I have now stated very shortly the views I take on this subject; and with these observations I will only express a hope

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that your Lordships will give the Bill a second reading.

*Moved*, That the Bill be now read a Second Time.

LORD BROUGHAM said, he entirely agreed with the general provisions of the measure proposed by his noble and learned Friend, and in the principles which he had laid down he most entirely coincided, both as to the limits on the power of divorce and as to the expediency of keeping as nearly as possible, in any new jurisdiction about to be established, to the principles upon which that anomalous jurisdiction of the Legislature had hitherto proceeded, making in each case a special law contrary to the general law of the land. He might remind their Lordships that a Committee of that House, which sat on this subject a few years ago, were unanimously of opinion that it was highly inexpedient to continue the present course of proceeding in matters of divorce. Two Prelates and the Primate were Members of that Committee. The subject had also been referred to a Commission of which the present Lord Chief Justice was the head, and underwent an investigation worthy of the importance of the question and of the high character of the Commissioners. They had the invaluable aid of their secretary, Mr. Macqueen, well known to the House by his Reports and by his most useful work upon its practice. They made their Report to the House last Session, and the present measure was founded upon their recommendations. There were some differences—one or two of which were material—between the Bill and the recommendations of the Commissioners; but, generally speaking, the latter formed the groundwork of the present measure. It would, in his mind, constitute an objection to the proposed transfer, if he thought it likely to add much to the pressure of business in the Court of Chancery; but, considering the limited number of such causes, the measure was not likely to produce that effect. It appeared from the Report of the Commission, that in a period of six years there had been only eleven opposed causes of divorce *a mensâ et thoro*. [Lord CAMPBELL said, that related to one diocese only.] He thought that was the total number, and certainly it was the number in the great central jurisdiction of London, where the bulk arose; but at any rate the transfer of this class of cases would not add much to the business of the

Court of Chancery. There were two points to which he wished to call the attention of their Lordships. These related first to the judicature, and secondly to one or two particulars respecting the limitations to the authority of the new court proposed to be constituted. \* With respect to the judicature, the Bill proposed to transfer all matrimonial causes except questions of divorce *a vinculo matrimonii* to the Court of Chancery. With regard to the other and more important class of cases, those of divorce *a vinculo*, the result would, he feared, be different. His noble and learned Friend near him (Lord Redesdale)—he might say his hereditarily learned Friend—was of opinion that it was dangerous at all to facilitate the granting of divorce *a vinculo matrimonii*. He (Lord Brougham) admitted if the mode of obtaining a divorce was made too easy, it would have a tendency to lessen the motives of the parties concerned to accommodate their differences; and, except in the single case of adultery, he would be as strongly opposed to any proposition for extending the power of dissolving the marriage tie as his noble and learned Friend could possibly be. But was there reason to apprehend that making divorce *a vinculo* a judicial instead of a legislative proceeding would increase the number of cases? For evidence on this point he might refer to the case of Scotland. In that country since the Reformation, the power of dissolving marriages had always been a matter of judicial and not of legislative cognisance, and he found that the average annual number of divorces *a vinculo* had been somewhat less than twenty on the average of the last five years for all Scotland. Some might think the morality of Scotland was higher than that of England; some might think it lower; but taking it to be equal, we might expect—looking to the relative population of the two countries—that the number of cases of divorce *a vinculo* would amount in England to above 100 annually. Now if, as was probable, many of these causes should occupy a considerable time, he could not see how it would be possible for the court to get through its business. The presence of the Lord Chancellor and the Chief Justice was essential to the court, and every one knew how much the time of those high legal functionaries was occupied elsewhere. These doubts of his were thrown out merely for the consideration of their Lordships; but he wished to

be understood as entirely approving of the change from the legislative to the judicial machinery, and, in conclusion, he returned his thanks to his noble and learned Friend (the Lord Chancellor) for the able and judicious manner in which he had attempted to deal with a subject beset with difficulties.

LORD CAMPBELL said, that having been at the head of the Commission referred to by his noble and learned Friend who had just addressed the House, and having the honour to be proposed a member of the court proposed to be established by the Bill, he considered it his duty to state his views upon the subject. It was his wish that their Lordships would unanimously vote the second reading of the Bill; but, at the same time, he trusted that they would make considerable alterations and improvements in it during its passage through the House. The two great objects of the measure must meet with universal approval—namely, the transference from the Ecclesiastical Courts of matrimonial causes, and the transference from Parliament of the function of dissolving marriages *a vinculo*. Practically speaking, for two centuries the law had been that a marriage might be dissolved by reason of the adultery of the wife; but that had been carried into effect, not judicially, but legislatively—namely, by an Act of Parliament passing both Houses of Parliament and receiving the Royal assent. This was an anomalous and preposterous state of things, and frequently led to the most unjust consequences; because even with regard to those who could afford the expense of obtaining the existing remedy, it caused great delay and vexation, and great unnecessary expense; but—what was worse—with regard to the great bulk of Her Majesty's subjects—and they were by far the largest proportion—it constituted an insurmountable barrier against the obtaining of relief. He would illustrate this point by a trial which took place a few years ago before a learned Judge, who had to try a prisoner for bigamy. The case was clearly made out; he was proved to have married another woman, his first wife being still alive; and he was asked, if he had anything to say why sentence should not be passed upon him. The prisoner said, the case was really one of great hardship; his wife was not only an adulteress, but she lived with another man, and as she had taken another husband, he thought he might take another wife. "But," said the Judge, "your course ought first to have been to

bring an action against your wife, to be tried before a judge and jury; and then, having recovered a verdict, you ought to have instituted a suit in the Ecclesiastical Court to obtain a divorce *a mensâ et thoro*; and having done that, you should then have petitioned the House of Lords for a divorce, and brought in a Bill and proved at the bar of the House of Lords the infidelity of your wife; and then, having obtained the sanction of one branch of the Legislature, you ought to have carried your Bill to the House of Commons, and asked them to concur in it; and having done that, you would then have had to obtain the Royal assent; and if you had succeeded, without any extraordinary expense, all this might have been accomplished for 1,000*l.*" "My Lord," said the man, "I never was worth 20*l.* in all my life, and I have not now a single farthing." The learned Judge replied, "You must obey the law; you have married a second wife while the *vinculum matrimonii* still subsisted, and I must send you to gaol." Cases of this kind frequently happened, and scenes, too, occasionally occurred in Parliament, in connection with Divorce Bills, which were degrading to the Legislature. He quite agreed, therefore, that instead of a marriage being dissolved by the Legislature, there ought to be a judicial tribunal before which the necessary facts should be proved, on which should be founded the dissolution of the marriage. Then, with regard to matrimonial causes, why should they continue under ecclesiastical jurisdiction? In the times of Popery, indeed, the reason for the necessity of Ecclesiastical Courts taking cognisance of those causes was, that marriage, by the Catholic religion, was held to be a sacrament, and could not, therefore, be dissolved by the ordinary tribunals; but that the bishop must, either by himself or by his judge, take into his exclusive consideration the question whether such marriage had been properly constituted, and whether there was any ground for declaring it a nullity, or whether a dissolution *a mensâ et thoro* should be granted. But since marriage was no longer regarded as a sacrament, but was considered only in the light of a civil contract, there could no longer exist any necessity for citing the parties before an ecclesiastical tribunal. He did not for a moment doubt that the object of the Bill was most excellent, and he likewise entirely approved of the principle upon which it proceeded. He did not agree with the noble Lord (Lord

*Lord Campbell*

Redesdale), whose able protest would be found in the Report, that there ought not to be any dissolution of marriage *a vinculo matrimonii* under any circumstances; still he was of opinion that their Lordships ought to proceed most cautiously, and that adultery should be the only ground upon which a dissolution of a marriage should be decreed. But, while agreeing with the principle of the Bill, he was sorry to say that he felt considerable doubts as to the advantages of many parts of the machinery by which that principle was to be carried out. He was rather surprised to hear his noble and learned Friend say, that there were some slight modifications of the suggestions made in the Report of the Commissioners. The fact was, that there were not only slight modifications, but most material alterations of the principles of that Report. In the first place the Commissioners unanimously recommended that there should be only one tribunal as regarded divorce *a vinculo* and divorce *a mensâ et thoro*. His noble and learned Friend said, he had the greatest reluctance to establish a new tribunal; but here he was actually establishing a new tribunal; and that being so, why, instead of having two tribunals for the two descriptions of divorce, did not his noble and learned Friend at once create one tribunal which would take cognisance of all causes affecting the matrimonial contract? He would imagine that a suit was brought before the new court to dissolve a marriage, and that that court held that there was not sufficient ground to grant a divorce *a vinculo*, as prayed, but that there was ample ground for granting a divorce *a mensâ et thoro*—what would be the consequence? The court thus to be created by his noble and learned Friend would not have the power to grant such a divorce, and the party, after all the expense he had been at, would have to go to the Court of Chancery and begin his suit anew. He had no doubt the new court would discharge its functions well, and would be deserving of the character which his noble and learned Friend had ascribed to it. He should feel himself honoured in sitting in such a tribunal:—but what was to become of matrimonial causes? They were to go to the Court of Chancery. He had nothing to say against the Court of Chancery—he honoured and respected it for all the purposes for which it was created; but was there anything in the nature of matrimonial causes which should make the Court of Chancery better

sited to take cognisance of them than any other court? Suppose a suit for annulling a marriage or for a divorce *a mensâ et thoro*, was there anything in the study of equity rather than of law which should endow an equity judge with a superior capacity to perform the duty of deciding in such a suit? He could not discover any peculiar advantage to be derived from such a course of study. But if a peculiar jurisdiction was to be established for taking cognisance of these cases, he thought the duty would be better performed by a single tribunal always devoted to them, than by several tribunals scattered about in different courts. There were no less than seven Judges of the Court of Chancery—the Lord Chancellor, the two Lord Justices, the Master of the Rolls, and the three Vice Chancellors. These matrimonial cases would be scattered indifferently among them all. He had given his consent that testamentary causes should go to the Court of Chancery only upon the supposition that they would be confined to one branch of that Court; so that, in fact, that branch of it would be a court of probate in the Court of Chancery. But if these matrimonial cases should by accident come to be heard, sometimes by one of the seven Judges of the Court of Chancery, and sometimes by another and another of them, he very much doubted whether all of them would be so well qualified to decide upon such cases as the present Judges of the Ecclesiastical Courts. He did not believe that this peculiar branch of the law would be by any means so well understood by each and every one of those seven learned equity Judges as it was now by the ecclesiastical Judges. He trusted his noble and learned Friend would reconsider this part of the subject, and would pay more attention than he appeared to have done to the representations of the Commissioners, among whom were Dr. Lushington, Mr. Walpole, a most distinguished jurist, and Vice Chancellor Wood. The Commission (to which he himself also had the honour to belong) received most able assistance from their secretary, who acted gratuitously. The Commissioners, after great deliberation, unanimously concurred in opinion that there ought to be only one tribunal for divorce and for other matrimonial causes, and that that tribunal ought not to be the Court of Chancery. He felt very much indebted to his noble and learned Friend for having introduced the Bill, but at present it appeared to him to be liable to great objection as

regarded the machinery by which it was proposed to be carried out, and would require many material alterations before it could be passed into a law.

LORD REDESDALE said, that having been a member of the Commission appointed to inquire into this subject, and having differed from his Colleagues on the most important point, he hoped he might be allowed to offer a few observations to their Lordships. After giving very great deliberation to the points which came under their consideration, he had come to the conclusion, that in any legislation on the subject they ought to adhere to the ancient law of the land, which held marriage to be indissoluble, and not to introduce, for the first time, a new principle into their jurisprudence, by which marriage should be rendered dissoluble by process of law. This alteration would be one of the widest possible kind; and their Lordships, possibly, did not appreciate the extent to which the alteration would go, because they belonged to a class to whom a remedy had always been open. He entirely differed from the noble and learned Lord who had just sat down, who had said that the law, practically speaking, dissolved marriage in this country; for he (Lord Redesdale) maintained that, practically speaking, the law made marriage indissoluble, for the means by which it could be dissolved were not accessible to the great majority of the people. The fact was, that from the earliest period to the present time, the common law of the land had considered the marriage tie to be indissoluble; and it was now proposed to reverse that condition of the marriage contract, and to render a dissolution, on adequate grounds of complaint, accessible as an ordinary course. At the time that he was appointed a member of the Commission, he entertained the opinion that divorce was permitted by the law of God, and that some new course in respect to obtaining divorce must, in some shape or other, be adopted; but when he came to examine into the Scripture authority for the practice, and to consider the whole bearing of the question upon the morals and social happiness of the community, and what must be the necessary consequences of taking even a very slight step in the direction that appeared to be contemplated, by appointing a Commission to inquire into the subject, he felt that he could no longer retain his opinion, and he felt it his duty to differ from his fellow Commissioners in

the Report they prepared in all that related to divorce *a vinculo*. He approved of the recommendations of the Report as to the constitution of a new tribunal for matrimonial causes, but he was satisfied that, if the principle is once admitted that divorce *a vinculo* ought to be a common legal remedy, it will be impossible to retain the exclusive jurisdiction over such divorces to a tribunal so constituted. Their Lordships must bear in mind that what it was now proposed to do would not meet the case of the poor man. Under the present measure a divorce could not be obtained except at a very considerable expense. It would be procurable, no doubt, at a less expense than by a Bill in that House—it would not be as accessible as it was by the law of Scotland, nor at a cost that would throw it open generally to the people. The Bill proposed to create a new Court, with three of the highest Judges of the land to preside over it; every care was taken that no laxity should creep into their judicial practice, that the proceedings should not be too easy, and that every step should be carefully watched. Now he (Lord Redesdale) maintained, that it would not be giving an effective, or a generally accessible remedy to keep the jurisdiction in the hands of such a Court as this; and that if a divorce *a vinculo* was to be considered a right and a legal remedy for adultery and cruelty, they must be prepared to make further concessions in the same direction, and ultimately place the proposed relief within reach of every class of the community, by extending the jurisdiction to cheaper and inferior courts; and this, in his opinion, would be a most objectionable course to adopt. In Scotland, the evidence in matters of divorce was taken before inferior courts, and the result, he believed, was by no means satisfactory. He fully agreed as to the inexpediency of the present mode of granting relief, and thought that the sooner it was done away with the better; but then his opinion was, that the relief ought not to be granted to any. At present, a divorce *a vinculo* could only be obtained, upon certain preliminary conditions, by an application to the Legislature, which only the wealthy could prosecute. That certainly was an anomaly; and, for his part, he should prefer to put an end to it by abolishing altogether the means of obtaining divorces. But let their Lordships consider how little, in fact, the people of this country had concerned

*Lord Redesdale*

themselves about the matter;—there had been no desire anywhere exhibited for the change proposed. There was nothing that so readily excited the feelings of the people, as the idea that there was one law for the rich, and another for the poor. How then did the matter stand in regard to the question of divorce? Hitherto they had been granted exclusively to the rich; but had there been any public demand for an alteration of the law on this subject? Not the least;—there had been no petitions in favour of an alteration, nor the least expression of a desire for a cheap tribunal for granting divorces. It appeared, therefore, that there was no necessity for extending this licence to the poor; and as to the rich, they seemed very little disposed to make use of their privileges, for there were not more than two or three divorce Bills presented in the course of each Session. When he considered these things—when he considered the sanctity with which the people of this country regarded the marriage tie, and how universally the faithless wife was looked upon with abhorrence, he could not but think it was most unwise on the part of the Legislature to come forward to alter the law of divorce. For a hundred years after the Reformation, there had been no divorces granted in this country. Then came Lord Roos' case, then came the Earl of Macclesfield's case, and then the case of the Duke of Norfolk, and other cases exclusively confined to Members of their Lordships' House. Divorces having been granted in these cases, other parties were induced to come forward and ask for a similar remedy, and afterwards it became a recognised practice; but, even then, up to the beginning of the present century, the number of divorces granted in a year did not exceed two or three. If, then, in the wealthy classes, they had so few cases of divorce, and from the middle and lower classes so little demand for any alteration of the law, he thought that, if that House came forward and made the first opening, they would be doing that which would have a most prejudicial effect on the morals of the country, and upon the domestic happiness of the people. He had abstained from entering into the religious view of the matter. He was aware that the religious views of the most learned and conscientious persons widely differed on this subject, both in favour of and against divorce; but by far the largest part of Christendom concurred that the marriage

tie was indissoluble, and in that view the people of this country seemed decidedly to participate. For these reasons he could not agree to the second reading of the Bill; and if it should be read a second time, he should feel it his duty to move, at a future stage, an Amendment, which should have the effect of preventing the granting divorces *a vinculo*, under any circumstances by any court.

LORD ST. LEONARDS said, it was quite clear that the present state of the law of divorce, and of the courts in which it was administered, could not be continued. On this they were all agreed, and it therefore became necessary to ascertain how the existing state of things could be best remedied. He had read with great admiration the protest of his noble Friend (Lord Redesdale), but he believed it was impossible at this time of day to say that there should be no dissolution of marriage. It was argued that by making a marriage dissoluble you prevented a reconciliation between the parties; but it seemed to him that reconciliation after such a crime as adultery should not be considered within the bounds of possibility, and therefore on that ground he dissented from his noble Friend's position. But if they allowed divorces generally, and left either party at liberty to marry, he feared that there might be such an increase of suits to dissolve marriage as would lead to very great inconvenience. In the present state of the law the remedy was expressly confined to adultery, or as regarded the remedy of the wife to a case of incest, and this was a state not open to general objection. With regard to modifications of juridical practice and alterations in the jurisdiction heretofore possessed by the Ecclesiastical Courts, they ought to know the whole scope and general effect of the proposed alterations, and the exact object it was intended to accomplish, before passing any partial measure. But he had to complain that these Bills were brought in one by one, before their Lordships were at all acquainted with the whole scope of the measures that were to be introduced. The House had already transferred to the Court of Chancery jurisdiction in testamentary matters; and in that measure he concurred, but only on the condition that the business should be confined to one branch of the Court. However, a clause which the noble and learned Lord on the woolsack carried after a division authorised the Lord Chancellor from time to time to direct in

what court the business should be transacted, so that, under that clause, the Lord Chancellor had the power to divert the business from one branch of the Court to another. The mischief would be increased by the present Bill, for it proposed to carry all matrimonial causes, other than applications for divorce *a vinculo matrimonii*, generally into the Court of Chancery; besides the subsidiary objection that this course of proceeding would have the effect of destroying, root and branch, a learned bar, capable of assisting the Court by its peculiar knowledge, and of advising the Ministers of the Crown in matters of national right. Let their Lordships look at the painful character of the cases to which the present Bill referred, and the nature of the evidence which they called forth; and he must say that this new business was not exactly such as he should like to see the Court of Chancery engaged with, and it must necessarily occupy a good deal of the time of the Court, as cases arising all over England would be brought before it. To try cases where a dissolution of marriage was desired a new court was proposed to be created, and evidence was to be taken *visà voce* in open court, which was, besides, to have the power to call the parties before the court for the purpose of examination. Now, he looked with some dread at an examination in open court of a husband or a wife upon a question of this sort. He thought that if a temptation could be held out for perjury, it would be by an examination of such a kind. But though the evidence was to be *visà voce* in respect to cases for a dissolution of marriage, in other matters brought before the Court of Chancery, such as applications for separation *a mensâ et thoro*, the evidence was not to be taken in open court, but in the ordinary form before an examiner. Where was the sense of such a provision? Why should there be two courts for the same object, and two modes of procedure for the same general class of cases—for the separation *a vinculo matrimonii* and the separation *a mensâ et thoro* were both matters of divorce—and why should one court hear the case on oral testimony and the other on written depositions taken before an examiner? By experience from cases brought before that House their Lordships were aware that nothing was so difficult as to get at the facts in applications for divorce. The parties came before the House with the determination to conceal everything that could be concealed. There was no counsel, except

on one side, and no cross-examination, and, therefore, the parties told what they liked and proved what they pleased, and it was only by extreme vigilance on the part of their Lordships, and by following up an inquiry in consequence of something that might have dropped from the witnesses, that the House was enabled to get at the real case. The same thing would take place under this new jurisdiction. He was of opinion that they were not yet prepared for a general measure of legislation on this subject which would be satisfactory to the country, and he thought it impossible that any measure could be satisfactory unless the question of the conflict of practice arising out of the difference of Scottish law was settled at the same time. Again, if a court was to be established for the trial of matrimonial causes, was it possible to leave unconsidered the present right of action for damages for criminal conversation, which was a disgrace to the country and civilisation? Were they to establish a competent tribunal for the adjudication upon all cases of divorce, and still leave this action as a stigma upon the law of England? If they did, it was evident that whilst this new court was sitting upon the question of whether there was to be a dissolution of marriage or not, the Court of Common Pleas or Queen's Bench—in the absence of the Lord Chief Justice—might be at the same moment trying an action for damages for the very offence that the other court was investigating, and might possibly arrive at a different conclusion with respect to the merits of the case. It was clear that some conclusion must be come to with respect to the retention of this action. If it were decided to retain an action which shocked one's sense, it should clearly fall within the jurisdiction of the court to which belonged the decision of the question, whether there was or was not ground for a dissolution of the marriage. Now, it appeared to him that the Bill of his noble and learned Friend was wholly defective in not dealing with the question of the retention of this action, or of the court before which it should be heard, if it was decided to retain it. If it was retained, it should clearly belong to the matrimonial court; because then, if actions for damages and for a dissolution of marriage were brought in the same court, it would have such evidence before it on the first action as would enable it to decide the question of the dissolution of marriage almost without any additional trouble. But for his own part he thought

*Lord St. Leonards*

the action for damages should not be retained. There was at present an excuse for its retention, because that House would not in general grant a dissolution of a marriage unless an action had been brought and damages had been recovered; on the ground that the party seeking the dissolution ought to show that he had sustained an injury, and that his conduct had been such that a jury deemed him entitled to redress. But such a proceeding would not be requisite if they established a new court, with absolute judicial power at once to decree a divorce *a vinculo matrimonii* if it thought fit. Should this action be retained, there would indeed be this difficulty in referring it to a court where there was no jury—that, whereas, before a jury there was the opportunity of entering into evidence as to the conduct of the man, so as to show that although the woman's conduct had been blameable, yet that her husband had also been so blameable as not to be entitled to damages, whilst it would not be possible for the Judge of the new court satisfactorily to enter in this manner into the conduct of the man. This Bill proposed to create two new jurisdictions. The Court of Chancery was to entertain matrimonial causes generally, while divorces *a vinculo matrimonii* were to be heard before a court otherwise constituted. Now with regard to the latter court. First, it was perfectly clear that the time of his noble and learned Friend on the woolsack was already so fully occupied in the Court of Chancery and in the hearing of appeals in this House, that he would be quite unable to perform the new duties proposed to be assigned to him. Indeed, he was already overburdened with work; he had absolutely no holidays, for when this House had a holiday he was obliged to sit in the Court of Chancery, and when the Court of Chancery had a holiday he was obliged to sit in this House. The same remarks would in a great measure apply to the Master of the Rolls and to the Lord Chief Justice, who were also to be members of this new court. It might, indeed, be said that, judging from experience, the business of the new court would be exceedingly light; but he believed that the effect of its establishment would be greatly to increase the number of applications for the dissolution of marriages. Then, with regard to the reference of general matrimonial causes to the Court of Chancery, the House ought to recollect

that the duties of that court were to be largely augmented by the Testamentary Jurisdiction Bill, and that if they went on thus from day to day throwing new duties upon this court and its officers, they would bring back all the delays in its procedure which our recent legislation had been intended to remove. His noble and learned Friend on the woolsack, however, deprecated the establishment of any new courts, and he (Lord St. Leonards) agreed with him in this. But the fact was that this Bill did establish a new court, with two new Judges, and it, moreover, cast upon the Court of Chancery business which was altogether inconsistent with its present duties, and which would render it absolutely necessary to appoint a new Vice Chancellor. It was said, indeed, that this was merely the appointment of an additional Judge, and not the establishment of a new court; it would, however, in reality amount to this, because it would render necessary a new bar and new officers. In his opinion it would have been better to establish a single new court for the hearing of both testamentary and matrimonial causes. He should not, however, oppose the second reading of this measure, but he hoped that his noble and learned Friend on the woolsack would give his best consideration to the various suggestions and objections which had fallen from both sides of the House.

LORD CAMPBELL wished to ask what was the meaning of the sixth section, which empowered an information to be filed for the dissolution of marriages on the ground of the consanguinity between the parties. Now these marriages were already void *ab initio* under Lord Lyndhurst's Act.

THE LORD CHANCELLOR said, that that clause was perhaps unnecessary; it had been introduced *ex abundante cautela*, because there was at present a proceeding of a similar character in the Ecclesiastical Courts, and not with any intent to alter the present law. As the measure he proposed had in substance obtained the approval of their Lordships, he need not offer many observations. As far as he could collect from noble Lords, the only objections which had been made to the Bill in the course of the discussion appeared to him to have reference to the nature of the tribunal to which questions of matrimony and divorce were in future to be referred. His noble and learned Friend the Lord Chief Justice had remarked that when he (the Lord Chancellor) stated that he had adopted with but

slight modifications the recommendations of the Commissioners to which this subject had been referred, he did not fairly represent what he had done. He thought, however, that he could show that he had not departed very materially from the suggestions contained in their Report. That Commission proposed that the court for entertaining applications for divorce *a vinculo matrimonii* should consist of three functionaries, a Vice Chancellor, a common-law Judge, and a Judge of the Ecclesiastical Courts; but it could not have been meant that these three functionaries should constitute a new court and discontinue their previous functions. As he understood the case, the Commissioners proposed that those learned persons should, in a suit for a divorce *a vinculo matrimonii*, constitute a tribunal *pro hac vice*, but that they should not be considered as forming a new court. It was in that sense he understood the proposal of the Commissioners, and he had to a certain extent adopted the suggestion. The whole extent to which this Bill varied from the plan proposed by the Commissioners was, that, instead of a Vice Chancellor, he proposed to appoint the Lord Chancellor; instead of a common-law Judge, the highest common-law Judge; and instead of having three Judges, to have five, of whom three should be a quorum—a regulation that would be found very convenient in a court coming together only from time to time. He had then added the Master of the Rolls; and then there were to be two other Judges appointed by Her Majesty. Now, no doubt, at first, the persons so appointed would be selected from the Ecclesiastical Courts; but afterwards, when these courts ceased to exist, they would probably be appointed from among the common-law Judges. He could not say that he thought, in substance, there was any great difference between the court of divorce proposed and recommended by the Commissioners, and the plan which he had submitted to their Lordships; but there was this distinction between it and what was proposed by his noble and learned Friend—that if all matrimonial causes were to be attached to the new tribunal, that tribunal could not possibly be constituted in the manner recommended by the Commissioners, because there would be more business to be despatched than could be managed by persons taken from time to time to constitute a court. The alternative was to constitute a new court with jurisdiction in all matrimonial causes, with power

of granting divorces *a vinculo matrimonii*; or that the more rare causes—those for a divorce *a vinculo matrimonii*—should be referred to a court created *pro hac vice* on some such principle as that proposed by the Commissioners, while other matrimonial causes should be referred to one of the existing courts. This was, then, the choice left to him to propose, to constitute a court *de novo*, or to constitute a court composed on the principle recommended by the Commissioners to grant divorces *a vinculo matrimonii*, and to refer other matrimonial causes to some existing court. He had been of opinion—and he still maintained that opinion—that it was better, however it might be necessary to multiply the number of the Judges in the existing courts, to avoid, if possible, the creation of new courts with an ill-defined jurisdiction; for, if the contrary principle were adopted, it would give rise to frequent embarrassment upon matters of form. This was almost the only country in which a division of the various tribunals was carried to so great a length, and, in his opinion, that such was the case was a blot upon our system. And although he did not think it practically a blot of such importance that he ought to undertake merely speculative reforms, in order to reduce our system into closer accordance with the principles of jurisprudence, he certainly thought that these considerations should induce us to avoid multiplying jurisdictions for the future as far as possible. In that view he thought that the Court of Chancery was the best tribunal for deciding matrimonial causes, although he was willing to give consideration to any argument which might be advanced against that opinion; but he objected to constitute a new court, because he could never admit that a tribunal, which had power of pronouncing divorces *a vinculo matrimonii*, ought to consist of any but the highest Judge of the law. The Commissioners stated, as a consideration of great importance, that this was not a matter to be safely intrusted to a single Judge; and but for that recommendation he should have recommended the Court of Chancery as the tribunal to have jurisdiction in such matters. He accepted, then, the recommendation of the Commission, that the power of granting divorce *a vinculo matrimonii* ought not to be granted to a single Judge; and then came the question as to the expediency of creating a new tribunal, with power to deal with all matrimonial causes. Was there any ne-

*The Lord Chancellor*

cessity for such a proceeding? He did not think there was any such necessity. A noble and learned Friend of his not then in the House (Lord Brougham), had made use of a sort of statistical reasoning, drawn from the state of affairs in Scotland, and he had argued that if, with the population of Scotland, there were twenty cases of divorce a year in Scotland, there would be many more in England; but his noble and learned Friend had quite forgotten that in Scotland divorces were obtained not only for adultery, but for a variety of other causes. The number of suits for divorce in this country now amounted to about two in the course of the year, and it could not surely be said, that for those cases it was necessary to establish a new court. With regard to what had been said as to the time at the disposal of the Chancellor, there were, no doubt a great many duties to perform, and he did not know that it would be possible to perform very many more; but it was quite uncertain what addition to his duties the present proposal would involve. No doubt cases of this description might increase, though, after all, most of these changes were merely experimental. It might be that in a few years there would be so large an increase in these cases that it would be impossible for the Lord Chancellor to attend to them, and, if this were so, those who came after the legislators of the present day must alter the mode of dealing with them. He did not, however, think it would be wise at first starting to create a new tribunal, which, he believed, would have comparatively little to do for many years to come. He would, however, give a careful consideration to the criticisms that had been made upon the Bill, he must own, in no unfriendly spirit, and he would see what alterations he could make in accordance with them, before the Bill went into Committee.

On Question, *Resolved in the Affirmative.*  
Bill read 2<sup>a</sup> accordingly.

#### EXCHEQUER BONDS (£6,000,000) BILL.

Order of the Day for the Third Reading read.

EARL GRANVILLE moved the third reading of the Exchequer Bonds Bill, on which he would not at present make any comments, but would reserve himself for any objections that might be urged against it. He might only state that the Exchequer bonds intended to be created by this Bill were not what was usually understood

as an addition to the debt; the money which they would raise was merely intended to meet the exigencies of the Exchequer till the revenues granted by the House of Commons, and which he hoped would also be granted by this House, came into the Exchequer.

*Moved*, That the Bill be now read a Third Time.

On Question, *Resolved* in the Affirmative.

Bill read 3<sup>d</sup> accordingly.

LORD MONTEAGLE: If I attempt to delay your Lordships, at this inconvenient hour, I hope you will bear in mind that I am not responsible for the present Bill, for the time at which it is brought forward, nor for the position in which we are now placed. This Bill was introduced without one word of explanation from the Government, though it is one of the most important measures of the Session, and sanctions a loan of 6,000,000*l.* to provide for the service of the year. The Committee on this Bill has been negatived, and the stage of the report avoided, and thus we are brought to the third reading without having been afforded one single opportunity for discussion. I do not complain of my noble Friend for urging on the measure at the present late hour, when the attention of the House has been long engaged on another question, because he has stated that it is really necessary that this Bill should now be read a third time; and I assured him on a previous occasion that I am the last man to stand in the way of this, or any other measure which the public service requires. But as I feel this Bill to be in many respects impolitic and unprecedented, I cannot acquiesce in its third reading without calling your Lordships' attention, and that of the public, to the peculiar principles on which it rests, and the strange enactments which it contains. I am perfectly conscious of the extreme inconvenience both to your Lordships and to myself of this discussion at an hour so very late as the present, and I am reminded of that which fell from the pen of a distinguished writer, who, in describing an imaginary speech, supposed to be delivered in the other House, suggested as its opening sentence—"Mr. Speaker, induced by the extreme impropriety of the occasion, I rise for the purpose of calling your attention to the present Bill." [*Laughter.*] If I could have taken any earlier opportunity of discussing this measure, I should feel that the satire implied in the words I have quoted might well

apply to me. But the Bill was introduced, and has since passed through its various stages, without explanation; and, without meaning anything disrespectful to my noble Friend who has now moved the third reading, I must say that a more limited and meagre explanation than that with which he has favoured us was never vouchsafed, even in defence of a Turnpike Bill, against which one single petition was presented. I shall now proceed, without further apology, to call your Lordships' attention to the principle of this Bill, only stating that the noble Lord may accept from me the most frank and most unreserved assurance that if this had been a mere Loan Bill, empowering Her Majesty's Government to raise six millions of money for the public service, even though I might not have thought the precise form of the measure the best adapted to attain its end, I would not have occupied your Lordships' time with objections. But I regret to say, that I consider the measure to be highly objectionable in principle, containing clauses pregnant with evil, which, if adopted, are likely to lead to great public inconvenience and abuse. I may here advert to the preliminary point to which the noble Lord called our attention, and on which he and I are distinctly at issue. I assert, and the noble Earl denies, that the 6,000,000*l.* to be raised by this Bill constitutes a loan. The Chancellor of the Exchequer maintains the negative, still more stoutly. I contend that, according to the common meaning of words, according to all legal interpretation, to all historical authority, and all Parliamentary precedent, this Bill is a Loan Bill in all respects. To imagine that you can divert the public attention from that fact, by drawing distinctions between this Bill and many others, which have passed from the days of Charles II. down to the present time, is only to engage in that intellectual display which was a favourite exercise of the subtlest casuists; namely, the attempt to show a distinction without a difference. I shall advert to this hereafter, and for the present shall only protest against such misapplied ingenuity. It is to the collateral and incidental enactments that I object, more than to the question how the money is to be raised. I object to the power which this Bill confers upon the Chancellor of the Exchequer, to do a great deal more than to raise six millions of money. You confer upon him powers to raise by this Bill money for the public service, at his unrestrained will and

pleasure—to sell his securities in the public stock market—to purchase with the money received new securities of another kind on the part of the Government; and, backed as the Government will be by the enormous fund at their disposal, I allude to 35,000,000*l.* the capital of the savings banks, the Chancellor of the Exchequer will be in a position to influence the stock market and the price of the unfunded securities in a manner inconsistent with the safety and the interest of the holders of the funded and the unfunded debt. I condemn the transfer of the functions of the Government from Downing Street to Change Alley. Now this is no necessary part of a loan, though I have no doubt the Chancellor of the Exchequer has a good reason for asking Parliament for these powers, and that reason will be found in the nature of the securities themselves. It is doubtful whether these securities are popular, as the phrase is, or, to use another phrase, whether they are offered in a form that is suited to the “taste of the money market.” These difficulties may, it is true, be overcome; and it is so proposed to surmount them, by making a lavish bargain; for there is no doubt at all, that if you will but only offer a sufficient money inducement, there is no amount of disinclination which you cannot overcome. It is, therefore, proposed to raise these 6,000,000*l.* at a rate of four per cent interest. This, I think, is an extravagant increase in the rate of interest; and let it not be said that, because on a former occasion I complained of an injudicious lowering of the rate of interest in 1853, that therefore it is not possible you may err in the other direction in 1854. We know that the reverse of wrong is not necessarily right. You give this extraordinary amount of inducement, which measures the disinclination of the public to accept your securities upon fair and equal terms. You give this rate of interest, which is entirely disproportioned to the rate to be realised either in Consols or in Exchequer bills, and this difference not only proves the impolicy of the present arrangement, but it measures also the disadvantages of the securities which you offer. Of the recommendations of these securities, indeed, we have already heard much—but of their disadvantages, the Chancellor of the Exchequer has experienced still more. They are nearly identical with those bonds which you tried to issue last year, and in

Lord Monteaigle

which you signally failed; when asking for 30,000,000*l.* you only obtained 400,000*l.* That failure naturally rendered the present securities distasteful to the public. Is it wise or politic to make use of these securities which have already proved to be distasteful to the public, and for which the increased price you have to pay is the evidence and the measure of the mistake you have already committed? Yet that is what you are persisting in at the present moment. I have lately heard the securities of France referred to and compared with the securities of England in a way that has altogether surprised me. The illustration is not very flattering to our credit just at present, when the interest on our unfunded debt has been raised, whilst that of France has been reduced. I regret to say that we have been compelled to raise the interest of the new Exchequer bonds to four per cent, whilst the interest on the *Bons de Trésor* has been reduced by one per cent by the French Government. Is there not something extraordinary, something wrong, in this? But let us seek its cause. By the course taken in 1853, you prejudiced the credit of the unfunded securities, which by your predecessors in office were uniformly relied on for emergencies like the present. By your past transactions with regard to the Exchequer bills, you have deprived their holders of that security which, up till last year, they were never without—the security that the Chancellor of the Exchequer, for the time being, would never deceive himself into a belief that he could work a miracle, and that his Exchequer bills could remain dry, like Gideon’s fleece, when all other kinds of securities were saturated with dew. Former Ministers seem to have confessed that they must submit to the ordinary laws of the money market, and that the interest on their Exchequer bills must rise when the value of money rose, and fall when the value of money was depressed. This is now changed, and, on the contrary, the holders of those securities found last year, for the first time, that this rule applied to them in the inverse, and not in the direct ratio—that, as the value of money was rising in all other securities, the Chancellor of the Exchequer lowered the value of those which they were so luckless as to hold. The result has been that you have deprived yourselves of the aid of the unfunded debt. These once favourite securities are no longer acceptable in the money market. You have been obliged to go into that market with securities of a new description,

and, in order to make them palatable, you have been compelled to offer terms which you never need to have done but for the error of your antecedent transactions. Is it not a strange and wonderful thing that we should see a great and powerful country like England—greater in her credit than in her wealth—greater from her fidelity to her engagements than from the amount of bullion deposited in her coffers—is it not a strange and wonderful thing that such a country should be compelled to raise the value of her unfunded debt from one and a half to four per cent in one year? Within the last twelve months the interest on Exchequer bills had stood at one and a half per cent, and now, by the present Bill, the interest upon these proposed securities is raised to four per cent. I say that is a phenomenon altogether unexampled in the moneyed affairs of this country. Nothing of the kind ever happened before—nothing more extraordinary in itself, or more dangerous in its consequences. I find, my Lords, that in what I stated on a former occasion I have been misapprehended or overlooked; at least it has not been answered. The argument I took the liberty of urging to your Lordships on that occasion, my noble Friend did not then meet, and he has not met now. I then called your Lordships' attention to this fact, that you must now be prepared, if this Bill is *bonâ fide* to be carried into operation, to cast upon each of the years 1858, 1859, and 1860, an additional burden of two millions, to be borne by them, in addition to the ways and means which they will require to meet the ordinary expenditure of those years. I took the liberty then of stating to your Lordships that such a mode of payment was inconsistent with the declaration, so ostentatiously made, of providing for the service of the year, out of the year's revenue. A second argument which I used was the following:—I told you, that you incurred a great and obvious risk; that you committed—I do not use the word at all in a personal sense—a gross act of presumption in taking upon yourselves to predicate what would be the condition of England during those years. To this no answer has been given by the Government; but since that time I have heard it asserted by some eager partisans, in reference to this last argument, "Oh, that is not what is meant. We do not pledge ourselves to pay off these bonds. What we do mean is this—that when those years come, the securities will be provided for in the same

way as railway bonds are provided for, by the issue of new securities of a similar kind to those which now existed." If that were so intended, the Bill before the House was an imposture. The Bill gave no such powers to Her Majesty's Government, nor had any one responsible Minister ventured to suggest that the issue of new securities was one of the principles of the Bill. On the contrary, all that has been said in defence of the Bill goes upon the opposite principle. Your Lordships and the promoters of the Bill must take either one ground or the other; you must either assume that the money is to be paid, as my noble Friend states, in 1858, 1859, and 1860, or you must take the opposite side, and argue that the securities now issued are to be replaced, when the time arrives, by similar securities then to be created, and in that way escape from the risks you incur by casting an additional burden upon these years besides their ordinary expenditure. Now, I do not attribute to Her Majesty's Government any intention at variance with the Resolution they have proposed, and therefore we must fall back upon the other difficulty—that we are, in fact, anticipating the resources of other years. It is said that the satisfaction of one security by the issue of another is what is every year practised in the case of Exchequer bills. Aye, but then you issue Exchequer bills in accordance with the law of the land, and in accordance with the public expectation that such exchange shall take place. But here you adopt altogether a new principle. In place of promising to exchange, you profess to extinguish the whole debt you contract by the end of the year 1860, by paying off the holders of the bonds at par. Now, on that subject, I have to say that the security you offer to the holders is imperfect. No doubt, you inform them, that they are to be paid off when the time arrives, but you have not provided any means by which they are to be paid off. They are to be paid out of such funds as Parliament may then be pleased to provide. You provide for the Exchequer bills by making them chargeable on the supplies of a given year, but here there is no provision made for their discharge; it rests simply on a general declaration of Parliament to pay. Nor are these bonds, when due, receivable like Exchequer bills in taxes or duties. I have another mode of accounting for the unpopularity of these securities. I have already stated reasons why the public do not like these securities; an addi-

tional reason for their dislike is, that they are too small in amount of capital. All public securities, to be acceptable, ought to be sufficient in their amount to create a market. My noble Friend knows that in that species of public securities in the conversion of which, unfortunately, so much of the public money was lately lost—the South Sea securities—though their rate of interest was equal to that of Consols, and though they were secured, like Consols, upon the credit of the State, yet they never reached the value of the Consols by one and a quarter per cent. Why was this? Because the capital was so small in amount that there was no sufficient market created for them; and without buyers, and without sellers, it is impossible that you can render securities palatable to the mass of mankind. Of that we have still another example. The Scotch Security Stock, which a few years ago was paid off, was guaranteed by the State; but the amount was so insignificant that it could not command a market. Now, the Chancellor of the Exchequer is unwarned by these examples. His six millions, even taken as a whole, are too small a capital to create a market, unless engrafted upon some of our larger stocks; but, not content with this, he makes matters even worse than they naturally would be, because he divides his loan of six millions into three different series, each of which, being issued under different conditions, will necessarily sell at a different rate, so that it is not one market for six millions of stock which he seeks to create, but three markets for loans of two millions each. My noble Friend will recollect that when this measure was first introduced, one prominent argument urged in its favour was that the bonds would be so advantageous—that they would give such great facility to commerce—that they would pass rapidly from hand to hand; that a person going to the country might take a bundle of them with him as he might take a bundle of five-pound notes; and that he could dispose of them as easily. I then took the liberty of doubting whether this would be so. The provisions of this Bill prove that I was right; for I observe it is proposed that each of these bonds may be registered and disposed of by transfer in the books of the Bank of England. I believe that this change was loudly called for by the public, but it will destroy the facility of passing the new bonds from hand to hand, which was formerly held out as their greatest ad-

*Lord Monteagle*

vantage. I may here remark that, with respect to this transfer, the clauses in the Bill do not adequately carry out the purposes of the framer, and if it were not for fear of intrenching upon the privileges of the House of Commons, this House might well apply itself to an amendment of those clauses. I would provide clauses rendering the forgery of these transfers, or any fraudulent use of them, penal. You have given the power to transfer, but you gave no security against the forgery of that transfer. In like manner you provide clauses protecting the bond from forgery, but you have forgotten to provide against the equal offence of forging the coupons which are attached to the bonds. These are matters which I think this House might well be permitted to employ itself in remedying, without trenching upon the privileges of the other House, and yet, according to the manner in which the two Houses now act, you cannot make any amendments in these Bills, even with the object of furthering and carrying out the views of the House of Commons. I have already stated that my main objection to this Bill is the power of interference which it gives the Government in the stock market, a power of interference especially dangerous taken in connection with the power of selling the capital stock of the savings banks. I stated originally, and I repeat it once more, that by law the power is confided to the Chancellor of the Exchequer. I go further, and admit that I do not object to his power of investing in any public securities all deposits that come into his hands, and the dividends received upon the value of the whole amount of stock. But this Bill goes much further, and to a much more dangerous extent, for the Chancellor of the Exchequer having a power to sell the stock of the savings banks, this Act enables him to invest the money received for the stock so sold in the purchase of these new securities. Now, I object to the purchase of the new securities out of the proceeds of the savings bank stock. And here I must call your Lordships' attention to a singular circumstance. In the original print of the Bill, as it was laid before the House of Commons, that danger seemed to have been foreseen, and to have been guarded against. In that draft many significant and pregnant words were introduced. The words gave full power to the Government to invest in these securities all such moneys as come into the hands of the Commissioners of Savings Banks "for in-

vestment." What moneys were those? All such moneys as parties paid into the trustees of savings banks on account of deposits, and also all dividends payable on account of savings banks stock, which the trustees were bound to invest. But it excluded, according to the import, and, I believe, according to the intention of the framers of the clause, the proceeds of all sales of stock. But these words, "for investment," which were in the original House of Commons Bill, have been omitted from the Bill in its further progress, and they are now omitted. This seems, as far as I can learn, to have been done without notice and without discussion. Now, I must say I object to the specific power which the omission of these words confers upon the Chancellor of the Exchequer. I think it is a dangerous principle. Nothing will be easier than for the Chancellor of the Exchequer to buy up every one of the six millions of the bonds with the money of the savings banks, to hold them in hand till the years 1858, 1859, and 1860, and then to present to Parliament the option of funding the securities, instead of paying them off. If, under the circumstances then existing, it should be found impossible or inconvenient to defray these heavy charges out of the ordinary resources of those three years, can you entertain any doubt that the other and easier alternative will be accepted, of funding these bonds so held by the Government, thus converting the expenses of the war of 1854 into a part of the permanent debt of the country, and doing that very act which the whole of the arguments, the whole of the principles, every opinion urged by the promoters of this Bill condemn, and ought to preclude them from doing? I say there is great danger that this will be the case. On another ground the measure is open to objection. I contend that it is proposed contrary to the pledge of the Government thrice given. Parliament was assured that no loan would be raised. I again ask you whether it can be seriously denied that this is a loan? Many attempts have been made to disguise the character of this transaction; but I contend that when one party obtains the use of the property of another, and gives a promise to repay what he has received, this transaction between a lender and a borrower is a contract for a loan; and that which is transferred from one to the other is a loan, and nothing but a loan. My noble Friend affects to doubt whether

such is the proper designation for this transaction; but as no one has a greater command of the English language than the noble Earl, would he be good enough, in any observations which he may make in reply, to tell the House, if this is not a loan, what on earth it is? It is not a purchase, because there is no permanent transfer of property; it is not a gift, because the money is to be repaid; it is, therefore, a loan, and nothing but a loan, and the powers of language, all the nice distinctions of Escobar or Suares, will never destroy that meaning and designation which common sense and common parlance assign to the transaction. But my noble Friend says that this is not the interpretation that ought to be put upon it. He does not say it is not a loan, but he says it is not what is ordinarily meant by a loan. I can assure him he is in error. If I were to go into the origin of the first loan, contracted in the time of Charles II., I might show that the loans were then contracted on the charge of the revenue of the year. You extended your financial system in the reign of William, when you got into the habit of dealing with money in a more permanent manner; but, even then, loans were made to the Government on Exchequer bills; they were also made charges upon the malt tax, and other sources of annual revenue. I may cite one example more upon this head, which I think is conclusive, and will prove that whether money is borrowed for a time, limited or prolonged, certain or uncertain, the money borrowed can only be considered and described as a loan. I had occasion, as Chancellor of the Exchequer, to contract the largest loan that has been contracted in modern times. I allude to the slave loan. I was anxious that the whole weight of that burden should not be cast on posterity. I wished that the present generation should pay a large proportion of the debt, and therefore I contracted the first loan of 15,000,000*l.*, partly on the security of terminable annuities, and partly on the usual principles of a permanent debt. The whole 15,000,000*l.* was raised by one contract, and was secured by one Act of Parliament. Can it be seriously contended that the permanent debt is, and that the terminable annuities are not, a loan? Can any reasoner suggest that no loan was made because the security was terminable? What were Pitt's dealings in terminable securities but loans? What was that part of his system of policy which, if he had

adhered to it, would have protected him from the severe strictures and attacks which have lately been made upon him—what was it but a series of loans? Is it to be believed that the three or four millions of terminable annuities which will fall in between 1860 and 1870, are not annuities contracted and to be paid for on the understanding that they were loans? Therefore, whether you look to the obvious and common sense meaning of the word, or whether you look to the principles which regulate them, you will find that the present arrangements are loans, and nothing but loans. It has been stated in another place that I made a charge against the Government of a most foolish character. The charge was conveyed in these words:—

“It was stated that after having pledged ourselves on the 5th of March last that there should be no loan, we gave notice on the 21st of April that we should have a loan. No doubt a most grievous and damaging accusation to bring against any Government if there was one word of truth in it. But that slight and unimportant element is totally wanting. We never pledged ourselves to Parliament in March that there should be no loan, and there was no loan on the 21st of April. What I said on the 6th of March, I stated on the instructions of my Colleagues, and what I said under their instructions was this, that while they found it impossible that they should commit themselves by any pledge or abstract declaration, they felt strongly that it was the duty and policy of the country to make, in the first instance, a great effort from its own resources, and that effort we recommended the country to make. Then, what appeared on the 21st of April was no loan, but a provision temporarily to raise money.”

I beg to call your Lordships' attention to the closing words of this sentence. They completely justify my assertion and my argument. It is admitted that this Bill is a provision temporarily to raise money. I wish no better description of a loan. The money is raised for a temporary purpose, but it is raised by way of loan, for it is borrowed, and is to be repaid. I shall not advert to some hard words that were used against me on that occasion, because I am quite sure they were not meant to be personally offensive. The character of the right hon. Gentleman who used them, his talents and his taste, make me unwilling to suppose that they were spoken in a manner intended to give personal offence, and, therefore, I entirely pass them over; but I think your Lordships will see that if I have occupied your time in proving that a transaction between a borrower and a lender is a loan, and nothing but a loan, there was at least some reason for my doing so. I could have wished to have

*Lord Monteagle*

made some further observations on this subject, but I do not like to delay the House in its present deserted state, further than to say that I cordially approve of the new taxes which the Government have proposed. If I have freely and frankly censured what appears to me objectionable, I feel much greater satisfaction in offering my humble need of approval of what I think to be right. If the Government had been actuated by selfish considerations, they would have made a different selection; but if we look to the duty they owe to the public, I do not believe that the taxes could have been better chosen, more advantageous in themselves, or more beneficial to the revenue. There may, however, be other opportunities for discussing the malt tax, the income tax, and the spirit duties. I shall certainly vote for them all, satisfied that on the whole they have been wisely selected, and that they ought to receive the support of your Lordships. The noble Lord concluded by moving, for the sake of recording his opinion upon the subject, the Amendment to which he had referred in the course of his speech—namely, that the Commissioners of Savings Banks should only employ in the purchase of the Exchequer bonds that portion of the property of the savings banks which they held in their hands “for investment.”

EARL GRANVILLE: My Lords, notwithstanding the blame that my noble Friend has laid upon me for having made such a short statement in introducing the Bill to your Lordships, I cannot regret that I did not interfere between him and the House, because no amount of explanation I might have afforded would have described the Bill more accurately than did the short statement which I laid before your Lordships. The noble Lord has given the House to understand that this Bill contains several novel provisions; but I think he has altogether failed to show that it contains clauses of any such description. There was one hypothesis which my noble Friend gave at the beginning of his speech, on which I do not think he had any right to found an argument. The hypothesis was, that this particular security is distasteful to the public. The fact does not appear to be so. All that can be subscribed for has been subscribed for. The scrip is now at a premium. The applications for it have been in larger numbers than the Chancellor of the Exchequer desired; and although I have not the know-

ledge of financial matters that my noble Friend possesses, yet if the time should ever come when it may be thought desirable to issue more of this particular description of stock, I shall be surprised indeed if it does not meet with greater favour from the public even than it has hitherto done. The noble Lord then went on to state his great surprise at the increased amount of interest allowed for this description of stock, intimating that it was owing to the dealings of the Chancellor of the Exchequer with the other part of the unfunded securities of the country last year. But he entirely omitted to mention other causes which have led to the increase in the value of money. He entirely omitted the deficient harvest; he omitted to state that we were at the beginning of a war with one of the greatest Powers in Europe—a war which called for additional armaments from all the other Powers in Europe, every one of which was in great want of money. This is so notorious, and so naturally accounts for the increased rate of interest, that I should think it an insult to your Lordships' understandings to attribute the rise in the rate of interest to the dealings of the Chancellor of the Exchequer with the unfunded securities. When the Chancellor of the Exchequer saw that Exchequer bills were at a large premium, he was justified in reducing the rate of interest upon them; and his justification is to be found in this—that every one of the Exchequer bills were at that time renewed; and though three millions of bills were cancelled at a late period of the year, and the rate of interest was obliged to be raised, yet the amount of interest at this time is no higher than would have been obtained if the rate had never been reduced. Then the noble Lord alluded to the great presumption which he attributed to us in professing to know how the payment of these bonds was to be met in the years 1858, 1859, and 1860. It may be on account of my own ignorance in financial matters, with which the noble Lord is so conversant, but it appears to me that this presumption, as the noble Lord calls it, is of the smallest amount possible. Can it be said that there would be any difficulty in meeting the payment of Exchequer bonds to the amount of two millions in any one year, when year after year you are in the habit of meeting the payment of Exchequer bills to the amount of from sixteen to seventeen millions? With regard to his argument, that there was nothing in

the Bill which provided for the due payment of these bonds when the time comes, I really cannot understand it. I cannot see what the object of such a statement can be, unless it be to throw some discredit upon these bonds when they shall be issued. In the very last year of the noble Earl's own reign as Chancellor of the Exchequer, a large amount of Post Office revenue was given up by the noble Lord's own measure of the penny postage, and the only provision made to meet the deficiency of revenue caused by that measure was a Resolution proposed by the noble Lord himself, that in the next Session Parliament would find the necessary resources. That may appear to be an objectionable course perhaps; but in the present case there can be no such objection. It seems to me that this measure is perfectly analogous to the ordinary plan of Exchequer bills. It is intended by it to provide for the immediate exigencies of the Exchequer. The money is not intended for the ordinary expenditure of the country—it is a mere anticipation of that taxation of which the noble Lord approves; and it appears to me idle to talk of presumption in the Government believing that these taxes will give the Government ample resources for meeting the Exchequer bonds at the required time. With regard to another argument which the noble Lord used, I must say I am not aware that any expectation was ever held out that these bonds would answer the purposes of a five-pound note, by passing from hand to hand. The very reverse appears to be the case; for as the bonds will bear interest, they never could have been intended to pass from hand to hand. Then, as for the alarm which the noble Lord on a former occasion excited, with regard to the difficulty of carrying the measure into practical execution, I must say that, owing to the noble Lord's own exertions, that difficulty has now entirely vanished. With regard to the words which the noble Lord has referred to as having been left out from the original draft of the Bill, I have to state that that omission was made advisedly, because, if approved of as they stood, they would have had an ambiguous meaning. If the noble Lord's Amendment were carried it would have no legal meaning whatever. The words are that the Commissioners of Savings Banks may invest in these securities all the savings banks stock they may hold in their hands "for investment." All the money that the Commis-

sioners hold in their hands is for investment. But the noble Lord objects to the money being invested in these new bonds; and though the Commissioners may exchange their stock for Exchequer bills, the noble Lord wishes to exclude them from Exchequer bonds. I cannot think that the House will agree with the noble Lord upon this point. There is one remark which the noble Lord made, and which I think he must have made inadvertently. He said that we invested the savings banks money in these bonds for the benefit of the holders in savings banks. These were the words the noble Lord used; but I cannot imagine that he meant to use them, for the noble Lord knows perfectly well that the money once invested is Government money and not the money of the holders, because if they were to profit by an increase in the rate of interest it would follow that they would lose by a decrease. The Government is responsible for the money, which is not used at the risk of the holders. Now, that being the case, it appears to me perfectly monstrous that the Government is not to be entitled to use the money in any way which may seem most advantageous to the public, and are not to judge for themselves whether it is desirable to invest it in Exchequer bonds as well as in Exchequer bills or annuities. As to the alarm expressed by the noble Lord at the power of the Chancellor of the Exchequer to deal with 35,000,000*l.* in this manner, it was quite clear, as regarded this Bill, that it was impossible to deal with any such amount, because the Bill only extended to 6,000,000*l.* The noble Lord, in criticising what I said with regard to loans, has, I think, not dealt fairly with me, and has represented me as saying what I did not say. He has made me deny that this is a loan, although he admitted afterwards that it was not a loan in a technical sense. What I did say, and what I do not wish to enforce by any casuistry, was this:—There are two different opinions as to the mode of meeting the expenses of the war. Some think that we ought to make every effort out of the income of the country, and by means of taxation derived from the resources of the country, to meet the expenditure of the war year by year; others, whom I think to be wrong, but whose opinions are entitled to every respect, hold that the war will confer a great benefit upon posterity, and that posterity therefore ought to be called upon to share the expenses of it; and that, in order that pos-

*Earl Granville*

terity shall take its share in the burden, we should add to the permanent debt of the country, which it is so difficult practically to reduce. In opposition to that course, the line which the Government has taken, rightly or wrongly, is this:—Taking a liberal estimate of the expenditure, they have, with the consent of Parliament, provided means which will more than cover that expenditure. They do not come now for 6,000,000*l.* to pay a portion of that expenditure; all that they do is to propose, in the same manner as the first 1,700,000*l.* of Exchequer bills were voted, to take a certain amount of money in order to keep a balance in hand available for certain contingencies. It is not clear, in fact, that the whole of that 6,000,000*l.* will ever be called for; and, if called for, it is not at all certain that the incoming revenue will not enable us gradually to diminish the debt by exchanging it for Exchequer bills before 1858, 1859, and 1860. But even if we cannot do that, what is the danger which the noble Lord apprehends? He says that by this Bill we take power to sell stock, to exchange it for Exchequer bonds, and so add to the permanent debt of the country. I trust I have already explained that we are not adding to the permanent debt. The noble Lord entered into some detail as to the grammatical explanation of the word "loan." I could not at first understand why he should dwell with so much emphasis upon that point, till I found he was alluding to some speeches which have been delivered by the Chancellor of the Exchequer in another place. I had the pleasure of listening to those speeches, and without referring to the applause with which they were received, or to the votes which followed them—because a great result may be produced by remarkable eloquence, even when exerted in a wrong cause—I must say, when the noble Lord deprecates so much the result of these financial measures, that it struck me as a remarkable fact—considering that the moneyed public of this country are not persons very readily led away by sentiment—that the value of the public securities, after three several explanations distinctly given and calmly reviewed and reflected upon, has risen to a very remarkable degree. With regard to the noble Lord's Amendment, in addition to the objections I have already made, I have to state that I asked the chief authorities in these matters in the other House what the effect of such an Amendment, emanating from your Lord-

ship's House, would be upon the fate of the Bill, and I am sure that when I tell my noble Friend it will be impossible to touch the Bill in the way he proposes without endangering the chance of its becoming law, it will not be necessary for me to press him to withdraw his Amendment.

LORD MONTEAGLE rose to explain. With respect to the remarks of the noble Earl upon the measure of the penny postage, he begged to state that he did not rest the guarantee for replacing the revenue lost upon a Resolution of the House of Commons; he made it a part of the Postage Act itself that the deficiency created by that measure should be made up by the Legislature. He admitted at the time that the measure involved a financial loss; and he was much reproached by the more sanguine for doing so. He had met with much obloquy for the measure; but a full justification of it was to be found in an admission made by the present Chancellor of the Exchequer, who, while stating, as one of the alternatives of the additional taxation which he did propose, that he might add to the fixed rate of postage now charged for letters, with that impressive eloquence for which he was distinguished, drew such a striking picture of the moral, political, social, and financial benefits of the Postage Act as it stood, as to satisfy all who heard him that it would be unwise to interfere with it. He was not aware that he had used any words calculated to alarm the depositors in savings banks. If he had done so, he could assure their Lordships it was entirely an inadvertence. He could not for a moment hold that there was any possibility of loss to the holders in savings banks from the money being invested by the Government. If there was a loss, that loss would accrue to the State; and the depositors in savings banks had the same security for their money as the Rothschilds or the Barings.

Amendment *negatived* without a division.

Bill read 3<sup>a</sup> and *passed*.

House adjourned on Thursday next.

## HOUSE OF COMMONS,

Tuesday, June 13, 1854.

MINUTES.] PUBLIC BILL.—2<sup>o</sup> New Forest.

## BLOCKADE OF RUSSIAN PORTS— QUESTION.

MR. HORSFALL said, he wished to ask whether it was intended to establish an effective blockade of the Russian ports in

the Baltic, the Black, and the White Seas, or whether there was to be a distinction in favour of foreign flags?

SIR JAMES GRAHAM: Sir, I have repeatedly answered questions on this point, and I have endeavoured to make my answers as clear as a sense of duty would allow me. Orders were given some time ago to the Admirals both in the Black Sea and in the Baltic, to institute a strict blockade of the Russian ports, and I have every reason to believe that these blockades have been instituted. With respect to the Danube, the Government received yesterday information by telegraph from Admiral Dundas that the Danube was blockaded, and notification of the circumstance will appear in the *Gazette* this evening. We have not yet received from Admiral Napier any notification of the blockade being instituted in the Baltic, which would justify a notification in the *Gazette* similar to that which will take place with regard to the Danube; but, as I have before stated to the House, though no such official notification can take place without detailed information from the Admirals on the respective stations, yet I have no doubt that, *de facto*, these blockades exist; and, of course, where they exist and the force is effective, warning from the seat of government is not necessary, but warning is sufficient when given by the Admirals of the blockading force. I need hardly state, that when a blockade is instituted, there is no respect whatever paid to foreign vessels. With regard to the White Sea, I have already stated that, in consequence of communications pending between the French and English Governments, no orders have yet been sent to blockade the White Sea, but I have reason to believe that a reinforcement of the squadron will be sent by the French Government, and then orders will be given to blockade the White Sea also.

## THE "STAR"—QUESTION.

MR. W. WILLIAMS said, he wished to ask whether the First Lord of the Admiralty had received any communication relative to a subject which formed part of a statement in the *Times* of last Saturday, relative to certain proceedings on board the *Star*, 8-gun sloop. In order to make his question understood, he would read the statement to the House. It was as follows—

"The *Star*, 8-gun sloop, Commander F. P. Warren, is in dry dock at Chatham, refitting for

active service again, with the same officers and crew. On this being communicated to the ship's company, they held a council of war between decks, and it was unanimously agreed to send off a round robin to the First Lord of the Admiralty, which left by Wednesday evening's post, humbly soliciting that, in consequence of the cruel and tyrannical treatment they had received from their commander during the commission of this sloop, the log-books and black-list books for the entire commission should be called for and inspected by their Lordships, as, in them, they say, it will or should be seen that nearly every man on board has been flogged, and many of them three and four times. No man ever received less than four dozen lashes, and those sharply dealt by the boatswain's mates, for fear they might be ordered to change places, and take their turn at the gratings. They also complain of the whole of the starboard watch being punished to a man with four dozen each, the petty officers disrated to A.B.'s, and the A.B.'s to ordinaries, none of whom have yet been reinstated; and, further, that when, through fear of taking petty officers' ratings, three smart A.B.'s declined the honour the commander wished to confer on them, they were for such conduct immediately flogged and disrated; and it is earnestly entreated that their Lordships will cause an inquiry into these matters, and not compel the men to desert a service and a country that now stand so much in need of their immediate and active service. They assure his Lordship that they are to a man willing to serve in any part of the world, and they conclude by praying his Lordship's attention to their memorial, and to appoint another commander under whom they can serve."

SIR JAMES GRAHAM: Sir, the statement which the hon. Member has just read to the House, and which was contained in a letter addressed to the *Times* newspaper in the latter part of last week, contains many inaccuracies. No round robin was sent to me from the crew of the *Star*—no council of war such as that described was held on board—and the only foundation for that part of the statement is this, that an anonymous letter was sent from the *Star*, addressed to my hon. and gallant Friend the Member for Gloucester (Admiral Berkeley), complaining of certain punishments that had been inflicted in that ship. In consequence of statements contained in that letter, Admiral Percy was directed to go on board the ship, and give the ship's company an opportunity of making any complaints with reference to the treatment they had received. This morning the report from Admiral Percy has been received by the Admiralty, and I must say, that the exaggerations of the statements put forth are very great. A very small proportion of the entire ship's company have received corporal punishment; but that was a particular transaction, in which a cask of wine was stolen

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and broached, when great drunkenness took place, and insubordination followed to an extent that led to the necessity of inflicting corporal punishment on four seamen and one boy. There is reason to think that discipline on board the ship has not been well and thoroughly maintained; and the whole matter is now under the consideration of the Board of Admiralty. I have reason to think that the conduct of the commander, though on the whole not altogether judicious, is yet defensible, while the conduct of the ship's company, though on many occasions marked by intelligence, has not been such as became British sailors. I have, however, reason to believe that, by some change that is contemplated with respect to discipline, it will not be necessary to pay off the ship; and I hope that, under the management of the officers who now command the ship, the conduct of the crew will be such as that they may be speedily sent into active service.

#### THE BALLOT.

MR. HENRY BERKELEY: Sir, in laying the claims of this great question of Reform again before the House, I have neither been encouraged nor rendered sanguine by transient success, and neither discouraged nor dismayed by casual defeat. I have persevered, and, as long as I have the honour of a seat in this House, will persevere, in the advocacy of a cause which I believe to be one of justice and expediency, but which I fear the Legislature of this country will not pass until it becomes a matter with them of compulsion and necessity. If I sought for an example for the course I am pursuing, Lord John Russell furnishes me with an irreproachable one. What lover of civil and religious liberty is there, who does not respect the motives, and applaud the pertinacity, with which that noble Lord year after year endeavours to free the Jews from the oppression of bigotry? That, indeed, is an example worthy of imitation. But if the Jews have need of your sympathy, and may claim your aid, equally so may the electors of this country, who labour under equal disabilities. The case of the elector is even stronger than that of the Jew. In the case of the Jew, the principle advocated by the noble Lord is denied. Many conscientious men believe that the Jew ought to be excluded by his religion from enjoying the privileges of other British subjects. Not so with the elector. No one disputes the principle we advocate—no one dares to deny that the

elector has a right to his vote, and to record that vote of his own free will, unmolested, unpunished, unrewarded. The question—one of vast importance—resolves itself into a very small compass; it is simply this—shall the electors elect? We say they shall: you dare not say they shall not—but you do worse, you say they shall elect, while you prevent them from electing. Now, I look upon it, that as far as reasoning and argument go, Mr. Grote has triumphantly established the power of secret voting to destroy the corruption of our electoral system, and to permit the elector to elect. We who follow Mr. Grote, have but to contend with the ghosts of arguments slain by him, and which from time to time are brought to mock and gibber at us, and to colour the votes of those who persist in rushing into a recusant lobby. Among those ghosts is the favourite theory of the noble Lord, that the elective franchise is a trust, not a right, delegated to the electors to be used for the benefit of the non-electors, and consequently that voting must be open, to permit the non-electors to stand by and see how the electors discharge their trust. A more delusive and mischievous theory cannot be imagined. Those who uphold this theory uphold the doctrine of punishment and reward, and sanction the intimidation of electors. In the first place, I contend that the elective franchise is a right, not a trust. In the second place, I can show, that, admitting it to be a trust, and not a right, that open voting prevents the trustee from discharging his duty. The loose and vague expression, that the elector holds the franchise in trust for the non-electors may be justified just so far as that we may be said to hold every gift, acquirement, or quality we possess, in trust for the benefit of mankind. Our mental power, our physical strength, our wealth, our position in society, may be said to be held in trust for the benefit of mankind. You may say so of the franchise, but if you attempt, as the noble Lord does, to give more weight to this than as to a mere figure of speech, we tell you at once that you are in error, and that your theory fails when tested by practice. There can be no trust without responsibility, and wherever there is responsibility, there must be admitted the principle of punishment for error. You tell us that voting must be open, that the non-electors may witness how the electors discharge their trust. Now, this is unmeaning jargon, unless you are prepared to define the meaning of an

electoral breach of trust. Where is the definition of an electoral breach of trust to be found, and with whom is it to rest? Is it to rest with the Tory non-electors? In that case, voting for a Whig is an electoral breach of trust. Is it to rest with the Whig non-electors? Then voting for a Tory is an electoral breach of trust. Is it to rest with the Radical non-electors? Then voting for either Tory or Whig is an electoral breach of trust. How, then, can you call anything a trust where any attempt at definition of what a breach of trust means involves you in an absurdity. I deny the responsibility of the elector; but Mr. Grote is so triumphantly clear on this point, that I beg to quote him. Thus says Mr. Grote—

“ You hear it sometimes argued that open voting makes the elector responsible to the public; and that secret voting removes that responsibility. This is a mere abuse of terms. I am prepared to show you that there neither is nor can be any responsibility in the case. Responsibility can attach to nothing but to the performance of a man's duty; a man is responsible when he is liable to loss in the event of discharging his duty badly, and when he is protected from loss in the event of discharging it well. Now, what is the duty of an elector? Simply to deliver his own opinion sincerely and conscientiously, let him be in the minority or in the majority—let him agree or disagree with whom he may. My neighbour and I may both discharge our electoral duty with equal fidelity, though he vote for a Tory and I vote for a Radical. It would be wrong in him to vote as I do, and it would be wrong in me to vote as he does. This, then, being the sole duty of an elector, will any man tell me that publicity of suffrage makes him responsible for discharging it well? Will any man tell me that every elector who votes sincerely and conscientiously is protected from loss, and that no elector becomes liable to loss except when he votes otherwise? The reverse is notoriously the fact; and it is because the reverse is the fact that the ballot is demanded. Let it not be pretended, then, that publicity makes an elector responsible for the discharge of his duty: all that publicity does is to make him liable to ill usage from those whom he opposes, and to good usage from those whom he supports. Who will be found to call this by the imposing title of responsibility? Why, it is only seduction and intimidation under a new name. And not only does publicity of suffrage contribute nothing to keep a voter in the right way against his will (which would be the only object of any real responsibility), but it tends most powerfully to drive him into the wrong way against his will. In a contested election, the public are divided into partisans on both sides; no one ever takes the least thought about the sincerity of votes; every one thinks that he is serving the public by multiplying votes on his own side, no matter whether these votes represent genuine convictions or not. It is thus that the real public obligations, the general electoral conscience, is left destitute of all support or guarantee from without, while it is exposed to assault and

importunity of every kind from those whose good will or ill will bears closely upon the comforts of the elector. Such are the effects of an open suffrage: so far from creating an efficient public responsibility—so far from providing new securities for conscientious voting—it only lets in fresh dangers, and sows factitious seeds of evil. Let the elector vote in secret, and the path of duty becomes at once smooth and easy: he will have no perils to defy, and no temptations to resist."

Thus spoke Mr. Grote in 1838, demolishing the theory so tenaciously clung to by Lord John Russell, by the Secretary at War, and others. Now I beg to illustrate the dangerous tendency of their theory by a practical instance. I refer the House to our blue books (black books they may well be called), as accumulated by Committees sitting on the sins of the last general election. And I select the Cork election for my illustration. At that election Messrs. Murphy, Fagan, and Chatterton were the candidates. I have the honour to know, and highly respect, the three gentlemen. Murphy and Fagan, Liberals and Roman Catholics; Chatterton, a Conservative and Protestant. The Roman Catholic priests took a warm interest in the success of Murphy and Fagan. We have it in evidence that they addressed their congregations after divine service, and, having evidently studied in the Russell school, they spoke much to this effect:—"You see, boys, the elective franchise is held in trust by the electors for you, the non-electors. Now, all those who vote for Chatterton commit a breach of trust, which is a sin. And you are perfectly justified in preventing them from going to the poll to commit that sin." Well, the non-electors took the hint—they did prevent as many of Chatterton's electors from polling as possible. Then followed scenes of violence, but I am not prepared to say, arising from the recommendation of the priests—there is no evidence to that effect, nor had it, of course, the approval of the noble Lord. What followed, however, arose from the dangerous tendency of the doctrine promulgated, both by the noble Lord and the priests, for the non-electors, as desired, watched the polling-booths to see how their trustees (so called) voted, chalked the backs of the sinful who voted for Chatterton, and, when they got these sinful trustees beyond the reach of the military, stoned them nearly to death. A faithful account of this disgraceful occurrence was rendered by my gallant friend, Colonel Chatterton, at a dinner given at Youghal to Isaac Butt, Esq., Member of Parlia-

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ment, at which my gallant Friend returned thanks for his health being toasted, and thus referred to the Cork election:—

"Sir, my profession has often compelled me to witness scenes of blood, but I never was more horrified than at one of the many that came under my immediate observation in one of my committee rooms on the day of election. Permit me to describe only one of those scenes. In one corner was laid a poor sufferer almost in a state of insensibility, his head fearfully gashed—in another, a man nearly in a dying state, quite unconscious, groaning in his agonies, and weltering in blood, flowing from frightful wounds on his head and person. On the table was another unfortunate, surrounded by several medical gentlemen, shaving his head, preparatory to operating upon a gaping wound on his fractured skull. But, Sir, I shall no longer pursue the sickening details, which humanity shudders to contemplate, but simply ask what caused all this murderous work—this merciless atrocity?"

Then, mark how my gallant Friend answers his own question—

"Because men dared to exercise that right which every free-born man should insist upon, and enjoy—to vote according to the dictates of his conscience."

Nothing can be more constitutional than this language of the gallant Colonel, who then proceeds—

"Amidst such scenes of slaughter and intimidation could it be supposed men would venture their lives to record their votes?"

Why, of course they would not. Up to this point I have agreed with, and felt deep sympathy in, every syllable uttered by the gallant Colonel. I then turn with amazement to his concluding sentence. I expected to find after the frightful case of bloodshed and intimidation he had described, that he would desire protection for the elector, but mark what follows. The Colonel concluded by saying—

"Permit me to give one parting word of advice—attend to the registry."

"Attend to the registry!" and endure the martyrdom of St. Stephen; "attend to the registry!" when the effect is to have your brains beaten out for your pains! This wonderful conclusion is to be accounted for in the simple fact that the gallant Colonel boasts that he is "bound heart and soul" in the Conservative cause, and protection to the elector is deemed by all good Conservatives a damnable heresy in their creed. Strange it is then, but true as strange, that the bruised and battered Tories of Cork can only look to their Liberal Members for that protection which their Tory candidate for whom they suf-

ferred so much refuses to accord. Murphy and Fagan were staunch supporters of the ballot. So much for the constitutional working of the noble Lord's theory, and the pleasures and advantages of open and inspected voting. The elective franchise then, I say, is a limited right—no rarity in this country. Blackstone has a chapter on limited rights. It is a right limited by two stipulations—namely, that the vote shall not be purchased nor placed at the disposition of a Peer of the realm. It is because the barriers which limit this right are trodden down and set at naught by both purchaser and Peer that we ask you for their best protection, a secret suffrage. It is almost incredible the miserable shifts to which those who oppose the ballot are driven, and the dreadful insincerity apparent in their reasoning. I know nothing much more humiliating than to see men of the rarest ability reduced to such a condition. The wildest statements are made, founded on the grossest misstatements. Now, we have the best reason to know that the ballot has never failed wherever it has been adopted; that open voting has often been changed for secret voting, but secret voting has never been changed for open voting. America has been cited as an instance of the failure of the ballot, but an examination of facts will prove exactly the reverse. Within the last twelve months I have been in correspondence with several American gentlemen of distinction, to whom I must express my indebtedness, and I have had the aid of a society in London, numbering among their names that of George Grote, and formed for the purpose of assisting the cause of the ballot, and to them I am indebted for many valuable statistics, showing the condition of the electoral system in America, and which, with the permission of the House, I will now concisely lay before them. The ballot is now enforced in nine and twenty States of the Union out of the thirty-one at present existing. In Massachusetts the ballot was instituted in 1634, and remains in force to the present day. They originally voted by folded papers. Since 1851, they have insisted upon the vote being delivered in an envelope. This has been called the compulsory system of secrecy, as it is intended that no elector should have the power, even though he had the will, of showing how he votes. As to bribery or intimidation, it is not known in Massachusetts, and elections are perfectly peaceful. The proceedings

begin at ten in the morning, and terminate at two in the afternoon. At two the result is declared, after which no sign of an election remains. So far from exchanging optional secrecy for *vidæ voce* voting, the Convention which recently sat in Boston to discuss and adopt certain reforms in the Constitution, declared that secrecy in the giving of votes ought to be made compulsory. In other States of New England the ballot is as ancient as in Massachusetts. In Connecticut, it was adopted in the Constitution of 1639, but in 1818 a new Constitution was decreed, when the ballot was finally confirmed. In New Hampshire, another of the New England States, the ballot is not so old as in Connecticut, but at a Convention solemnly held in Concord, in 1792, it was finally determined that the Senate and House of Representatives, as well as all officers, from the highest to the lowest, should be chosen by ballot. Pennsylvania has practised secret voting in its optional form up to the present day. Election riots have occasionally arisen in Philadelphia, but they have been caused from the facility afforded of giving aliens false naturalisation. It is an evil which is not incidental to the ballot. In New York, where the number of electors is much greater than in Boston, the mode of balloting is also different. It was not until 1777 that the ballot was instituted in New York, and then only as an experiment for two years. Well, at the expiration of that time the system was confirmed, and finally made part of the Constitution. It cannot now be altered, even by the State Legislature. Great use has been recently made in Parliament of certain expressions used by Governor Seward, in several late addresses to the New York Legislature, regarding abuses which have taken place at elections in that State. Now, what was the fact? Governor Seward stated in his message of 1850, that—

“The alarming increase of bribery in our popular elections demanded their serious consideration. The preservation of their liberties depended on the purity of the electoral franchise, and its independent exercise by the citizens, and he trusted they would adopt such measures as would effectually protect the ballot-box from all corrupt influences.”

In the State of New York, there is on the one hand, no register of electors, and, on the other hand, a system of printed tickets. This may be called ballot, but it is not secret voting, and the corruption which exists, according to Governor Seward, may

be fairly taken rather as an illustration of the evils of open voting, than of the evils of the ballot. It should be also remembered that the abuses complained of exist in the city of New York only, and not throughout the State. In Michigan, and in comparatively younger States, the ballot has been adopted and worked with a degree of care producing the best results. The severest laws are enacted for the punishment of those who act improperly at elections. For instance, any inspector or clerk who is proved to have wilfully neglected his duty, or is found to have acted corruptly, incurs the penalty attached to misdemeanor, and may be punished by fine of 1,000 dollars, or three years imprisonment. Any one voting twice at the same election is punishable by fine of 200 dollars or six months imprisonment. Any one tampering with the ballot-box, by abstracting or introducing voting papers, is punishable by fine of 500 dollars or twelve months' imprisonment, or both, at the discretion of the court. Every one found guilty of any of these election frauds is disfranchised for two years, and made ineligible to hold any public office of any kind.

The two last States of the Union which surrendered open voting for the ballot were Kentucky and Louisiana, the former making the change about the year 1830. Under the open voting system, in these States the most sanguinary conflicts took place. The poll was kept open for three days. Mr. Stewart, who published a book on America, says, that at Louisville, during an election, he saw three desperate fights in one hour. In short, Kentucky and Louisiana rivalled our Blackburn, Clithero, Six-Mile Bridge, or Cork, and an election under the system of open voting in those States was productive of anarchy and confusion. They have now adopted the ballot, and their elections have become as peaceable as those of Massachusetts and Michigan.

Well, then, if the ballot produce in America peace, order, and freedom of election, the exact reverse of open voting in England, it produces the same results in Switzerland, Holland, and Belgium. As regards Switzerland, I cannot do better than ask permission to read a few extracts from a letter addressed to the Editor of the *Norfolk Herald*, by a Norwich man, giving a graphic account of a contested election in Geneva.

"Sir—When I arrived in Geneva, I found a  
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state of things wonderfully like that which I had seen at home on the approach of an election—party spirit very strong: Conservatives who were called Aristocrats, Radicals who were called Revolutionists, and Democrats who were called Socialists and Red Republicans; three journals, each ascribing every possible excellence to its own section, and every possible demerit to the others. The 14th of November last was the day. On that day the Canton of Geneva was to choose the 'State Council' of seven, to whom the Executive Government of the Republic is confided for two years. The constituency is about equally divided into the inhabitants of the town and the population of the adjoining country. The former, of course tradesmen, are for the most part Protestants; the latter, tillers of the soil, are for the most part Roman Catholics; and at this moment religious rivalry enters largely into the questions which disturb the State. The electors went up each to his own department, identified his name with that on the printed list, and received his ticket, on which the clerk inscribed for him, if he wished it, the names of his favourite candidates, or he was free to write them on it himself, if he preferred to vote in secret. He had then nothing to do but to walk up to the urn and quietly drop in his bulletin, just as we put letters into the post office. This operation went on steadily and in tolerably equal time. No crowding, no shouting, no passion nor confusion disturbed the scene, not one drunken man was to be seen, and this be it remembered in a country where every man drinks wine, and where almost every man has wine to drink. Thus quietly, in a few hours' time, in less than a short winter's day, were given nearly ten thousand votes, and many more could have been given if required.

"On the morrow, the President declared the Opposition had won by a narrow majority.

"The election was over; the old Government, after a reign of seven years, was dethroned; and the new Government reigned in its place.

"Such were the facts of the election as they presented themselves to the eye of a stranger. They warrant, as I think, some inferences not unworthy the attention of the British public. In the first place, they warrant the inference that, even amongst a population recently enfranchised, vote by ballot leads to a more orderly and peaceable conduct of elections than is common in England. They lead to the inference, that vote by ballot tends to give a true expression of public opinion, by protecting the voter from intimidation and bribery. They lead irresistibly to the inference that vote by ballot does not favour the choice of ignorant legislators. The candidates chosen on this occasion are every one of them men belonging to the Democratic party, and yet they receive the hearty and unanimous support of the Conservatives, who express themselves perfectly content with the choice they have made. I will only add, that it was my good fortune to witness the election in company with an intelligent young American, who asserted that these inferences were quite as fairly deducible from the experience of our Transatlantic cousins. You have thus evidence of the practical results of the ballot when tried both in the largest and the least Republic in the world.

"I am, Sir, yours, &c.

"A NORWICH MAN IN GENEVA.

"Dec. 26th, 1853."

I think there can be no doubt of the beneficial effect of the ballot in Switzerland. In Belgium it is equally successful; but I have so recently laid the electoral condition of Belgium before the House, that it is almost too early for Members who oppose this measure to pretend to forget it. Well, then, France affords a brilliant instance of the well-working of the ballot; but as the opponents of the measure have taken exception to France, and actually, in 1852, made the election of the French Emperor their *grand cheval de bataille* against the ballot, I must be allowed one word on that subject. Need I remind the House that shortly after the celebrated *coup d'état* Louis Napoleon held in English estimation about the same kind of degraded place as Marshal Haynau, of woman-flogging memory. Why, Lord Palmerston was hunted like a bag fox, because he did not join in the outcry against the French Monarch, who was then represented as a kind of mixture of the murdering propensities of our Richard the Third, with the religious hypocrisy of our Henry the Eighth—

“In him the double tyrant sprang to life.”

Why, Sir, we were told that this blood-thirsty Monarch was propped on his throne by the bayonets of his troops. Go to war he must, to indulge the warlike propensities of the French, or be assassinated. “To your tents, O Israel!” was the cry, and actually without a threat, without a foe, we rushed to arms, called out our militia, fortified our forts, built ships of war, and for this state of war in a time of peace we were told we had to thank the ballot-box. What a handle of this was made by the opponents of the measure—the ballot had been weighed in the balance and found wanting—for of the ballot came this dreadful Monarch. From one end of the country to the other the cry against the ballot was raised; Members of Parliament, Ministers of State, demagogues at public meetings, candidates on the hustings; the present First Lord of the Admiralty alluded to it; the Secretary at War of the last Whig Ministry, Lord Panmure, then Mr. Fox Maule, told his constituents at Perth that he could no longer vote for the ballot since it had returned the Emperor of the French; and the *Times* newspaper embalmed this notable declaration in a leading article. In short, you tied the ballot-box round the neck of the unpopular Frenchman and condemned them together. In

vain did we represent that the only value we attached to the ballot-box was as to a piece of mechanism giving to the elector secrecy, and, consequently, safety; but perfectly inadequate to compel those who use it to make a virtuous or vicious choice. We were clamoured down. Now, then, tell me why in 1854 I should not take up the ground you assumed in 1852, and confound you with your own claptrap? Why should not I tell you to thank the ballot-box for placing on the throne of France a Monarch whose sentiments and actions are alike constitutional—a Monarch who, so far from pandering to the warlike propensities of his people, has boldly told them that the days of conquest are passed never to return—who is unwilling to draw the sword until it can only rest in the scabbard with disgrace—and who now displays the oriflamme of France, not for the subjugation of free nations, not for the lust of empire and vainglorious ambition, but for the rights of nations, the just balance of power; against the oppressor for the oppressed; and lastly, I tell those hon. Gentlemen who attacked the ballot through Louis Napoleon, that the other day, during that splendid Elizabethan pageant which took place at Portsmouth, when our truly English Queen reviewed our gallant fleet as they sailed to the Baltic, the thought uppermost in every English mind—the thought expressed by the tens of thousands present—the remark iterated and reiterated by the press—was, that only one addition was necessary to make that the finest spectacle in the world—the presence in our waters of the French fleet, and on the quarterdeck of Her Majesty's yacht Her august ally, now eulogised by you all as faithful, loyal, and brave, the ballot-elected Monarch of France. I trust that hon. Members will not suppose that I rely upon such wretched claptrap as they do to make my cause good; so far from it, I take the ground I always did, and readily admit that the vices or virtues of a man elected by ballot form no criterion whatever, on which to judge of the merits or demerits of that institution. Well, then, France furnishes the strongest possible instance of the success of the ballot, and forms a splendid contrast, with the peace and order of her elections, to the tumult, disorder, and demoralisation of the elections in this country. Such, then, is the result of a fair inquiry into the working of the ballot in other countries. Now, no doubt I may be asked the question—Why

bring on this measure of reform when the Government have given up their Reform Bill? How stands the case? The Government bring in a Reform Bill, not containing one word of protection to the elector; I give my usual notice, to ask for a Bill to protect the elector. The Government give up their Bill. Is that a valid reason for dropping mine? Why, Sir, when hon. Members tell me that I ought not to ask for protection for the elector, because Government do not persevere with their Reform Bill, I may as well tell them that they ought not to go this summer to shoot grouse in Scotland because Lord Aberdeen does not play on the bagpipes. But while Government drop their Reform Bill, they load the table of this House with Bills for the prevention of bribery and intimidation, and certain Members do the same. I firmly believe those Bills to be useless, and I also believe that the ballot will do exactly what those Bills will not do; and, therefore, I urge it on the attention of the House. I rejoice that you have laid your Reform Bill aside, because it does not contain the ingredients necessary to produce ultimate success, and because it contains within it the elements of destruction to the present able, strong, and, I hope, Liberal Ministry. While I say this, I must add that there is, in my humble judgment, much of good in the measure, and I should certainly have supported the second reading. But the causes which ensured the failure of your Reform Bill are those which militate against the success of the ballot. You cannot persuade men to give up political power—you must compel them to do so. The people alone can do that. You cannot persuade some ninety Members to follow you into the doors of a lobby with the certainty of turning themselves out of the doors of this House. The people alone can compel such a political suicide. Before you can regenerate this House, the people must feel sufficient interest in your Bill as to take it upon their shoulders and lay it on the table of this House, as they did in 1832. The people will not do that until your Bill has more of the ingredients of popularity, an easier understood, and a greater extension of franchise, and protection to the elector at the poll. Well, the Reform Bill slumbers—*requiescat in pace*; but the Bills pretending to upset bribery and intimidation are before the House. I believe that those Bills will have exactly the same success which every measure has

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had of that sort. In Defoe's time the state of our electoral system was the same as it is now. I have often called to your attention that great man's opinion of the ballot. Take now his opinion of severe laws, and their utter inability to repress electoral corruption. Thus writes Defoe—

"We have lately had two or three sharp laws to prevent bribery and corruption at elections. Now, never was treating, bribery, buying of voices, freedoms, and freeholds, and all the corrupt practices in the world, so open and barefaced as since those severe laws were enacted."

Thus thought, and thus wrote Defoe, at a remote period. Now hear one of the first authorities of the present age, and observe how completely he agrees with Defoe in the utter inutility of penal laws to put down intimidation. That authority is the right hon. Thomas Babington Macaulay.

"You cannot, I am afraid, repress intimidation by penal laws. Such laws would infringe the most sacred rights of property. How can I require a man to deal with tradesmen who have voted against him or to renew the leases of tenants who have voted against him? What is it that the Jew says in the play:—'I'll not answer that, but say it is my humour;' or, as a Christian of our own time has expressed himself, 'I have a right to do what I will with mine own.' There is a great deal of weight in the reasoning of Shylock and the Duke of Newcastle. There would be an end of the right of property if you were to interdict a landlord from ejecting a tenant, if you were to force a gentleman to employ a particular butcher, or to take as much beef this year as last year. The principle of the right of property is that a man is not only to be allowed to dispose of his wealth rationally and usefully, but to be allowed to indulge his passions and caprices to employ whatever tradesmen and labourers he chooses; and to let, or refuse to let, his land according to his own pleasure without giving any reason, or asking anybody's leave. If it be impossible to deal with intimidation by punishment, you are bound to consider whether there be any means of prevention, and the only mode of prevention that has ever been suggested is the ballot; observe with what exquisite accuracy the ballot draws the line of distinction between the power which we ought to give to the proprietor and the power which we ought not to give him. It leaves the proprietor the absolute power to do what he will with his own. Nobody calls upon him to say why he ejected this tenant or took away his custom from that tradesman. It leaves him at liberty to follow his strangest whims. The only thing which it puts beyond his power is the vote of the tradesman, the vote of the tenant, which it is our duty to protect."

Then there is a Bill brought in by my right hon. and learned Friend the Member for Essex, who proposes to act upon the consciences of venal electors by a tremendous oath. Why, have we not oaths enough, and appalling violations of oaths? Do not men sell their votes as pigs, poultry, sacks

of corn, flour, apples, and go to the polling booths and swear by their Maker they are guiltless of bribery? Why, any one who has taken the trouble to look into these matters, knows that evil-doers are not restrained by the stringency of an oath. I know an instance of an elector who took the bribery oath at an election, with the Testament in his right hand, and a five-pound note in his left, with which he had been bribed; that man eased his conscience by kissing his thumb, and not the book. I know the case of another elector who was fought for on his way to the poll by two contending parties. One party contrived to slip a five-pound note into his right hand; the other party insisted on the bribery oath being put. The man turned short round, and ran away. People, of course, said, "Oh! he cannot stand the oath." But what was the fact? He came up at the end of the day, swallowed the oath, and voted; and he afterwards explained that having the five-pound note in his right hand, he could not lay hold of the book without exposing it. Does my hon. and learned Friend suppose that he could deal with such cases as these by any tremendously worded oath? As for intimidation, the only attempt made in all these Bills to put down that, by far the most flagrant of our electoral evils, is to be found in the following specimen of legislative puerility in a Bill now before the House for the prevention of bribery and intimidation—

"This Bill enacts that every person who shall by himself, or by any other person on his behalf, make use of, or threaten to make use of, any force, violence, or restraint, or shall inflict or threaten to inflict any injury, harm, or loss, or in any other manner exercise intimidation towards any person on account of the manner of giving his vote, or in order to induce or compel such person to vote or refrain from voting, shall be deemed to have committed the offence of undue influence, and to have incurred the penalty (say 50*l.*), together with full costs, to be awarded to any person who shall sue for the same."

Does this meet the intimidation of landlords, of customers, of creditors? Is the landlord obliged to avow his reasons for turning out his tenant? Is a customer obliged to avow his reason for dismissing his tradesmen? Is a creditor obliged to assign a reason for carrying out the judgment of the law? At the present moment the true cause for such proceedings is not avowed in nine cases out of ten. If you pass your Bill, the true cause will never be avowed, but the punishment of recusant

electors will proceed exactly as at present. Away with such miserable tinkering work, such patching and botching as you are now making in your committee room upstairs! Like all tinker's work, when done, it will fall to pieces. Away with such deception, such insincerity! The ballot is the only remedy, and you know it. Now I have two remarkable cases of intimidation before me, neither of which could be reached by any laws at present existing, nor yet by these abortive Bills. The first I find in an able speech made by Sir James Graham in Carlisle, 4th January, 1838, after his defeat for East Cumberland, and published as a pamphlet. In that speech Sir James Graham uses that quiet irony and sarcasm, of which he is such a master, with great effect, against us poor Whig Radicals, as he delighted to call us. Poor Mr. Hume came in especially for his share, the right hon. Gentleman considering him a very bad politician and something addicted to rebellion; he found also great fault with Lord Palmerston for having been indiscreet enough to vote for Leader and Evans, and then the right hon. Baronet, after garnishing his discourse with sundry pleasant allusions, and particularly with one taken from the Cumberland wrestling ring, thus proceeds to lay it well into the Comptroller of the Royal Household, and these are his words—

"What was the course which Ministers pursued at the last general election? Upon that occasion Mr. Leader stood for Westminster, in opposition to a man who was not untried. He was a distinguished officer, almost the right hand of the Duke of Wellington in the Peninsular war—a man eminent for his public services, for the moderation of his opinions, and the great suavity of his demeanour. What decision did Her Majesty's Government come to between two such candidates? I blush to state it. An officer high in Her Majesty's service, no less a person than the Comptroller of the Household—a person who, on the accession of the new Sovereign, has the power of appointing the tradesmen to supply the Royal Household in the metropolis, and, therefore, possesses extraordinary influence over the constituency of Westminster—was, with the full consent of Government, appointed chairman of the committee of Messrs. Leader and Evans, in opposition to Sir George Murray. [*Cries of "Shame."*] You may suppose that I have stated the whole of the case—nothing like it. We have heard much of the intimidation said to have been employed by landlords during the last general election, but what was the conduct pursued by this chairman of the Radicals' Committee, this Comptroller of the Royal Household? He actually withheld the warrants of appointments until the election was over, for the avowed purpose of influencing that election. [*Groans.*]"

Now I selected this case because it is per-

fectly edifying to see how virtuous a Tory can be when he thinks he has got a case against a Whig, and how virtuous a Whig can be when he thinks he has got a case against a Tory. Here Sir James evidently thought to use the language of the ring, that he had got a Whig's head into Chancery, and he pummelled away in fine style, and then finished off the Comptroller with a regular Cumberland cross buttock. I only hope that, now the right hon. Gentleman has come back to us Whig Radicals, he will look sharply after the Royal Household. Now none of the Bills before Parliament touch this case. Comptrollers of the Royal Household may still carry their influence with Westminster electors as far as they please, but they must not avow it. How strange that the right hon. Baronet, who so vividly portrays the abuse of power, should not feel that the best protection against Comptrollers of the Royal Household, great chamberlains, little chamberlains, great sticks, little sticks, and all the numerous sticks which command patronage, is to be found in a secret, safe, and silent vote; there is and can be no other remedy. I next turn to the second case of intimidation, which I have been in possession of ever since the year 1841, when it took place. I at once tell the House that I cannot give up the names of parties implicated, nor will I in any way indicate the locality. I pledged myself not to bring forward the case during the lifetime of one of the parties. I am now absolved from silence on that score, but I feel confident that when the House hears the case, the innate delicacy of Gentlemen will cause them to approve of the caution I use. It appears that a master tradesman, an active Conservative in a certain borough, voted for the Liberal candidate, as well as influenced five tenants and workmen to vote the same way. It may be as well to observe that neither of the candidates knew anything of the case; both of them were too honourable men not to have turned their backs upon the guilty agent with indignation. Well, this tradesman did not hesitate to say he had been intimidated into voting as he had done by a man of property, to whom he was under deep obligation, owing him a very large sum of money. The creditor was a country gentleman, residing in a distant county, and likewise a strong Conservative. But now I come to the point: the country gentleman, the creditor, had a sister well married and

*Mr. H. Berkeley*

settled in the borough where the debtor resided. On the day previous to the election, an attorney called upon this lady; he produced a packet of letters, and said—"Through the death of a client of mine, these letters have come into my possession; I know them to have been written by you previous to your marriage. Look at them. If they fall into your husband's possession, ruin and disgrace will overtake you. I know that your brother has advanced large sums of money to a man in this town; I must have that man's vote and influence for the Liberal candidate, or your husband will have possession of these letters." In short, this election agent applied to this unhappy lady the screw of ruin; the sister applied to the brother the screw of compassion; and the brother applied to the debtor the creditor's screw; the debtor applied to his workmen and tenants the master's and landlord's screw; and this ramification of atrocious election screws was applied to five electors, to compel them to betray what they believed to be the best interests of their country, and tell a lie before their God. Now, if hon. Gentlemen will reflect on the wear and tear of conscience, the excess of mental anguish involved in this horrible conspiracy; and when they know that under the system of open voting such cases are liable to occur, and that under a system of secret voting their occurrence is impossible, I emphatically ask, can you hesitate? Let me not be told that this is an extreme case. A most abhorrent case it is, I readily grant, so abhorrent that it is, to my thinking, enough to condemn any system under which it could take place; but tell me not of an extreme case, when it can be matched with cases of tenants ejected and their families starving, tradesmen dismissed, their business shattered, debtors consigned to prison, and an array of horrors, given in evidence against the present system, showing that no language is too strong to depict the tyranny arising from open voting, and the slavery which crouches beneath its influence. I have now only to ask the friends of justice and humanity to record their votes in favour of liberty of conscience. The aid of such hon. Members I invoke, let them be of what politics they may. I have never treated this as a party question, although I do not deny that for seventeen years I have been a partisan of those Liberal Ministers who, during that period, have held the reins of Government; but on this question I am of

no party, I belong to neither of your factions. I am neither Montague nor Capulet; but I can say, and I do say heartily and emphatically, a "plague on both your houses," for between you the electoral rights and liberty of conscience of my countrymen are stabbed well nigh to the death. I implore you, then, to save your constituents from this moral assassination, permit the elector to veil his vote; you thus secure his safety, and preserve the integrity of the suffrage. With the high and constitutional object of obtaining purity of election, I ask for leave to bring in this Bill.

LORD DUDLEY STUART said, he rose to second the Motion, and after the eloquent, witty, forcible, and convincing speech of his hon. Friend it was only necessary for him to say a few words. It was, he believed, the earnest wish of the people of this country that the ballot should be established, because they felt that all Bribery Bills and similar attempts at legislation would prove ineffectual. He was himself always in earnest in political matters, and he liked to see Government in earnest too, whether the matter in hand was war with Russia or the removal of grievances. He knew that his hon. Friend below him (Sir J. Shelley) not long since got into sad disgrace for using the word "sham." Awed by that example, he (Lord D. Stuart) would be more cautious, but he yet would venture to say that he could not understand how any Government earnest in the cause of reform could say one word against the ballot. Since the Motion was last discussed in that House he had taken the opportunity of speaking to several Americans upon the subject, and amongst others, to the late American Minister at this Court, a most distinguished and able man. The reply of the American Minister to his inquiries was this, that although there might be different grades of opinion in the United States on the subject of the ballot, yet he believed that if it were proposed to abolish it, every American would refuse to be a party to such a measure. He (Lord D. Stuart) thought as all former means of staying corruption and intimidation had failed, it was only just to the country and to the House to give the ballot a trial. It was endeavoured to set people against it by crying it down as un-English. He would not pretend to say whether it was English or not, but he certainly thought the practice was a most "gentlemanly" one. Whenever any set

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of gentlemen were called upon to vote they invariably used the ballot. Since last year a striking instance of this had occurred in the Christ Church School election. There the candidates were persons occupying most dignified positions—the one the chief magistrate of the City of London and the other a Prince of the Royal blood. Did the governors of the charity vote openly? Of course not; the un-English, but nevertheless almost universal, practice of the ballot prevailed. There was a passage in the address of the noble Lord (Lord John Russell) to the electors of the City of London which showed that the noble Lord still remained an opponent of the ballot, and hence the opposition of the Government was to be looked for on the present occasion. The noble Lord boasted that there was no vote which he had not given openly. Of course that must be so while the ballot was not the law of the country. He (Lord D. Stuart) was not, however, quite without a hope that the noble Lord would yet have to give a secret vote, for he trusted that the day was not far distant when the House of Commons would agree with him in thinking that the ballot was the only way in which the voice of the people of this country could be fairly and freely heard.

Motion made, and Question proposed—

"That leave be given to bring in a Bill to cause the Votes of the Electors of Great Britain and Ireland to be taken by way of Ballot at Parliamentary Elections."

MR. WARNER said, he thought it impossible for any arguments to get over the case made out in favour of the ballot by the most able speech of his hon. Friend (Mr. Berkeley). He agreed with those who thought that the ballot would be found a specific remedy against intimidation, but he did not think it would be found an equally certain remedy for corruption. The ballot had saved France more than once, and the time might come when it would be necessary here, because it was a protection against popular violence as well as against the intimidation of masters. If his hon. Friend should be unfortunately beaten upon the present occasion, he hoped the day would yet come when the ballot would not be considered a party question, but a matter of detail as to the best mode of carrying out our electoral system, and the means of doing away with those election excesses which reflected so much discredit upon this country. [*Cries of "Divide!"*]

VISCOUNT PALMERSTON: Notwith-

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standing, Sir, the impatience of the House, which is very natural at this time of day (it was seven o'clock), and upon a subject which has been so often discussed, I trust I may be permitted to state in a very few words the grounds upon which I shall give my vote against the Motion of my hon. Friend. I am not insensible to the advantages which may accrue from any arrangement or system which may prove an effectual remedy against intimidation and bribery; but, in the first place, my opinion is—and it has not been lightly formed, and is of long standing—that the ballot, as it is proposed by my hon. Friend, would utterly fail to be accompanied with that secrecy which is the foundation of all the beneficial results which it is proposed to accomplish. Why, Sir, will any man persuade me that you can get rid of canvassing, or that you can persuade men to keep to themselves the political opinions which they entertain—that they will not tell to their friends and companions the political feelings and opinions by which they are animated—that they will not declare the preferences they have for this or that candidate—and that on the day of election it would not be known, as well under the ballot as under a system of open voting, how the great majority of the electors intend to give their suffrage? Why, Sir, no mechanical contrivance, no legislative enactment that Parliament can devise, will, in my opinion, prevent the opinions and the votes of the great majority of the electors from being as fully known under the system of the ballot as under the present system of open voting. We have been told a great deal of the example of other countries, but let any hon. Member ask any citizen of the United States whether the ballot does produce that secrecy which we are told is the essential foundation of a proper system of voting. It is perfectly well known that it does not, and that the opinions of the electors in the United States are as well known to their fellow-citizens, and are as systematically avowed, as in the United Kingdom—that men go to the poll with the balloting tickets in their hats, and with coloured papers in their hands, indicating the candidate for whom they mean to vote. Sir, the electors of this country are too honourable and too manly not to avow their opinions. They are not ashamed to declare the name of the candidate who is identified with the political system which they intend respectively to support. Therefore, away with

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this nonsense—away with the attempt to create a delusion in the public mind which is inconsistent with all the known facts on this subject. Well, then, Sir, for the great bulk of the electors there would be no secrecy as to their vote. They would scorn secrecy upon such a matter—it would be repugnant to their personal feelings, and at variance with their political predilections. To some of the electors I admit the ballot might be secret—to some shopkeepers or tenants, or a few persons who might be under the apprehension that a certain vote might be productive of some injury to their condition or to their fortunes—and they might take care that in giving their vote there should be no knowledge of the manner in which they intended to vote. But what would be the condition of such a man during the period intervening between the commencement of the canvass and the giving of his vote on the day of election? Would the ballot prevent him from being solicited by one side or the other for his vote? Would it prevent those who had influence over him from extorting a promise that he would vote for their candidate? It does not follow that because a man's vote is given, as some one has said, in an envelope, and because he puts his hand in a hole to the right or left, as the case may be—it does not follow that the man who thinks that he may command a vote would not use that screw upon which my hon. Friend has dilated in order to obtain a promise from the elector. That promise will either be given or withheld. If it be given, and if the man votes according to his promise, of what use is your ballot? If the promise is given and broken, what becomes of the improvement in the morality of your electoral system? The ballot will then exercise a degrading and demoralising, instead of a beneficial, influence. You would be lowering the people instead of raising them in the scale as social and civilised men. If the elector refuses to give that promise, will that save him from the resentment of those who have an influence over him? Will not those persons ask why he should refuse to make that promise unless he intended to vote the other way? Sir, no man will persuade me that the consequences to such a man will not be the same as they are at present if he goes to the poll and gives a vote; and, therefore, the ballot in either case, whether as regards morality, or secrecy, or protection from the consequences, would not be effectual. My first objection

to the ballot is, that it would not accomplish the purposes for which those who propose it put it forward for the acceptance of Parliament. I object to it, indeed, first, because it will not succeed; and, next, because it may succeed. The House will be reminded of the person who said that the Pretender was not the son of James II. A friend said to him, "How can you be so unreasonable and illiberal as to say that?" "Well, then," was the reply, "I object to him because he is the son of James II." My objection to the ballot is the same whether it succeeds or not. I object to it, if it were to succeed, because secrecy in such a matter as voting for Members of Parliament would be an entire change in the habits and practices of the people. I think that to make men hold secret political opinions, and to debar them from those political manifestations of their partialities and antipathies, would be the violation of an important element of the British Constitution, and that to compel men to conceal in their own bosoms their opinions upon political affairs would be a great national calamity. If you succeeded in obtaining that secrecy which is desired, you would, I think, lose a great element of political virtue. Now, Sir, there is another objection which I have to the ballot. I think that, if it succeeds in accomplishing its purpose, it will be a great evil as bearing upon the political organisation of this country. I think that, upon principle and theory, it is an error to say that a vote at an election should not be known. I must contend that a vote for a Member of Parliament is a trust exercised by the elector for the benefit of the country. It is a trust in the present limited range to which the vote goes; but even, if the state of things indicated by what I must say is the jargon of universal suffrage, but which is not universal suffrage at all, should prevail, and if every man of a certain age were to vote, I should still say that the vote is a trust. So long as a part only of the community have a vote, it is a trust for the rest, and even if every man, woman, and child in the country voted, I should still maintain that the vote was a trust that every individual was bound to exercise for the benefit of the nation. I hold that, according to the spirit of the Constitution of this country, every man who exercises a political right, or performs a public duty, ought to do it openly and in the face of the country. My hon. Friend (Mr. H. Berkeley) has quoted a passage from a

highly respectable individual (Mr. Grote) to show that this view of the question is a fallacy. Now, with all due deference to my hon. Friend and to Mr. Grote, I must say I never heard a passage in which there were more fallacies than that; it was a play upon words, and not an argument of reason. I say that the suffrage is a trust which every elector has to perform when he votes for a representative to sit in this House, and it appears to me most evident that every man who has a political function to perform and a political act to do should do it subject to the responsibility attaching thereto. We are told that there is no responsibility, and there can be no punishment, attaching to an abuse of the exercise of a voter's right. And then, we are asked, who is to judge in such a case? Are the Tories to judge the Whigs, and the Whigs to judge the Tories? Sir, I say that there is a responsibility, and that every man who has a vote is responsible to public opinion, to his neighbours, to those who know the act and who know the elector's opinions. This responsibility has a great and governing influence on the mind of every honourable man, and I will not be one to deprive him of that publicity which keeps him in the right course. If such votes could be given, and if every man could vote without the public knowing how he had voted, you would, I think, lose an inestimable advantage in keeping alive those feelings of political right and wrong which are so essential for the well-being and welfare of the country. Sir, on what ground is it that this question is argued? It is said that every man who has a vote ought to be protected from suffering. Now, I do not admit that. I say that every man, be he high or low, who has a public function to perform ought to make up his mind to suffer whatever inconvenience may arise from the honest and faithful discharge of his duty. Upon the same reason that electors are to give a secret vote, why should not Members of this House also give votes in secret? And so it is in countries where secret voting at elections is established. ["No, no!"] I say yes; in other countries, and in France particularly, the principle has been carried out to its natural conclusion. If you give to the elector that which is supposed to be the protection of secret voting, why not introduce the same secrecy of voting into the legislative body itself, for, if justice requires it at all, it requires it in the one case as much as in the other? The Mom-

bers of this House are, it is true, a smaller body than the electors of the kingdom, but they are equally a body intrusted with political privileges, and one which exercises political functions bearing upon the general interest and welfare of the country at large; and why should not a Member of this House be at liberty to vote in secret, according to his conscience, and without fear of any consequences to himself, as well as those electors who send him to Parliament to occupy the seat he now fills? No man will tell me that a Member of this House, who has a proper feeling of ambition, would not think it as great a grievance to be visited at the election on account of the votes he has given, as the tradesman to incur the displeasure of his customer, or the tenant that of the landlord from whom he holds his farm. As to the real amount of injury which has resulted from influence of this sort, I must say, as far as my own knowledge goes, I believe it to be grossly exaggerated, and in many of the cases in which tradesmen profess to be the victims of persecution for their vote, their fortunes were damaged before, and they lay that upon their vote which ought to be placed at the door of their own imprudence. In general, what a man loses from his political opponents he gains from his friends; the account is pretty equally balanced, and, although there may be a few cases, such as those mentioned by my hon. Friend, in which great abuses prevail, yet, taking the aggregate, I do believe that there is a great deal more clamour than there is any real and just foundation for. Not to detain the House longer than is necessary, I will merely state a general outline of my objections, which are shortly these—that the ballot would not be effective to produce secrecy; that it would not protect the voter from the consequence of his political bias; and if it did produce secrecy, I think it would inflict a great injury upon the British Constitution.

SIR JOSHUA WALMSLEY said, he had hoped that the numerous debates which had taken place on the subject of secret voting, had almost, if not altogether, exploded the arguments which had been just used by the noble Lord (Viscount Palmerston). It might be very well for the noble Lord and others in his independent position to speak of Englishmen going openly to the poll; but the noble Lord should bear in mind that the ballot was intended to protect those who were

not independent, but who were subject to coercion. It was very true that the noble Lord could go to the poll with his ticket in his hat; but how was the poor man, who was under the control of his employer, or the agricultural labourer or tenant farmer, under the control of his landlord, to exercise this right in the independent manner of which the noble Lord had spoken? It might answer the view of the noble Lord to call secret voting un-English, and state that it would lead to hypocrisy; but he should remember that its being un-English was falsified by the fact of the ballot being more used in England than in any other country in Europe. But there was a simple test by which to try the validity of this assertion—to ask ourselves the question whether it was more un-English to vote openly and notoriously against our conscience and convictions, or secretly in accordance with those convictions? This would, he thought, decide the question as to the ballot being at least in the spirit of right. Again, the noble Lord urged that it would lead to hypocrisy. He (Sir J. Walmsley) could not but think that the spirit of hypocrisy attached much more to those who made such a statement. In fact, the very assertion presupposed a right to interfere with the independent exercise of the vote—a right which neither did nor ought to exist, and which, consequently, could not be fairly urged. Sufficient had been urged by the mover of the measure to show that gross oppression was used by the numerous acts of intimidation which he had cited. The noble Lord had given no reply to these, but argued that the voter should patiently bear them. That, in other words, for the exercise of a constitutional act, he should be placed in the most painful position, and subject to serious wrong. It appeared to him (Sir J. Walmsley) that to give a man a vote, and not sustain him in its independent exercise, was both unjust and impolitic. This opinion was so general in the manufacturing districts, that at the Reform Conference, at a very large meeting of employers and employed, it was unanimously declared that any extension of the franchise unaccompanied by the ballot would be little better than mockery. In his opinion the only possible partial objection to the ballot was the limited character of the franchise, but with a wide extension of the franchise the ballot would be as necessary to the middle-class voter as it now was to their

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less opulent fellow subjects. The question necessarily involved that of Parliamentary reform generally, but he would not trespass on the time of the House by entering into detail, but content himself with recording his opinion, which he did with perfect sincerity, that any extension of the franchise though accompanied by the ballot, which did not enfranchise the great body of our artisans, would fail either to meet the necessities of the case or the reasonable expectations of the people. Now a 6*l.* rating, with a three years' residence, would effectually exclude the great bulk of that class from the franchise. In the borough he had the honour to represent, out of 14,000 houses there were only 4,000 voters, including some 1,500 freemen. Now the Bill proposed by the noble Lord (Lord John Russell) the late Member for the City of London would have eventually removed the latter; and as a 6*l.* rating would only have increased the number of voters as housekeepers by 610, the constituency would have been reduced nearly 1,000. On the other hand, if a *bond fide* rent were taken as the basis of the franchise in boroughs, the constituency would have been doubled. He would not have introduced the subject of reform generally had it not been referred to by the mover of this question, and were not the ballot intimately mixed up with the subject of reform. For his own part, he believed that any measure of reform would be imperfect without the ballot, and that the ballot would necessarily require, to ensure its popularity and usefulness, a large extension of the franchise.

MR. C. FORSTER said, in justice to the large constituency he represented, who were much in want of that protection which it was the object of the ballot to give, he must support the Motion. There was, in his opinion, a wide distinction between Members of Parliament and constituents voting secretly. The people of England had a right to know how Members, who were responsible, discharged their duty; but such a principle did not apply to the electors themselves, and he was rejoiced that his hon. Friend (Mr. H. Berkeley) had not been deterred by the postponement of the Reform Bill from again pressing the subject on the attention of the House, for it might well be considered independently of the large question of reform, which could be taken upon its own merits. He should have

thought that the disclosures made before Election Committees, and the difficulties in which the House had been involved in consequence, would have been sufficient to produce a favourable consideration of this question. In some cases they had been compelled to suspend writs—and he asked whether something more than Bills of pains and penalties was not needed, and whether they ought not to call upon hon. Members to give a practical proof of the sincerity of their professions against bribery and corruption, by voting for a measure which would tend to make the practice extremely difficult, if not impracticable? In France the ballot had worked most successfully, and had prevented all that naked and undisguised purchase of votes which made our electoral system a standing reproach both at home and abroad. No doubt men of independent circumstances and feeling would always vote openly; but it was for the timid voter, who was exposed to the ruin of himself and his family for giving a conscientious vote, that the protection of secrecy was demanded. The habits of dissimulation engendered by the practice of compulsory voting caused a greater deterioration of the national character than the operation of the ballot could ever produce. But not only would the ballot check bribery and intimidation, it would also put an end to the turmoil and confusion that prevailed at the elections for our towns and boroughs; and it would likewise discourage the setting in motion of the machinery frequently resorted to in public-house parlours to decide doubtful and wavering voters. [*Cries of "Divide."*] He would not detain the House any further, but he trusted that if the ballot were not successful that evening, it would, ere long, be adopted as the only mode of securing freedom of suffrage to the constituencies of England.

SIR JOHN FITZGERALD said, he had witnessed so many scenes of oppression in Ireland arising out of open voting, that he felt constrained to support the Motion. There the electors were kidnapped, maltreated, and coerced, by their landlords to vote according to their wishes, and that fact alone should be sufficient to induce scrupulous minds to give the elector the protection of the ballot. Since his election he had received letters from some of his constituents, imploring him to intercede with their landlords to prevent their being ejected, in consequence of their

having voted in his favour, while in many places in Ireland the landlords had had recourse to the aid of the military to compel electors to vote against their will. Surely, then, the best remedy for these abuses was the ballot, which he hoped to see carried during the Session.

MR. BRIGHT: I am quite sensible, Sir, that many hon. Members are very anxious, at half-past seven o'clock, to put an end to any debate that may happen to be in progress, because it will give time to dress for dinner to those who intend to come down and vote on some other question that may be before the House at eleven or twelve to-night. I am, however, disposed to think that we may just as well be employed in a little further discussion of this question as in going to a division that could, at any rate, only settle the point whether this Bill shall be introduced or not. I shall not attempt an elaborate argument on the subject of the ballot, because I agree very much with the hon. Member for Bristol (Mr. H. Berkeley), that there is little to be said in addition to what was said in its favour twenty years ago; but if there be any speech that I have ever heard in this House which is worthy to rank with those of Mr. Grote on this question, I should say it is the speech of the hon. Member for Bristol, in asking for leave to introduce this Bill to-night, and which must have produced, I believe, a very considerable effect upon the opinions of the House. I said I should not enter into any elaborate argument now, because the question has been brought within a very small compass, inasmuch as all, or very nearly all, the grounds on which we advocate the establishment of this system are admitted upon both sides of this House. It is not in the least denied that bribery to a very large extent existed at the last general election; and I think every Commissioner's Report on the boroughs that have been specially brought before this House, declares that this bribery took place not only at the last election, but prevailed extensively at previous elections. If there were any difference of opinion with regard to bribery, there certainly could be none as to intimidation; for I could not believe—and I declare it honestly, although it may be contrary to the courtesy of this House—I say I could not believe any Member who said he was of opinion that intimidation did not prevail at almost all the contested elections in the United Kingdom. Some hon. Gentlemen

*Sir J. Fitzgerald*

opposite occasionally boast that these disgraceful scenes are confined to the boroughs, and that the counties carry on their elections in a manner highly creditable to themselves and honourable to the constitution of the country. But these Gentlemen know, as well as I do, that the difference between the counties and the boroughs is just this, that in the boroughs there is a sufficient degree of independence under which a man can sell his vote, and does sell it in many instances; and in the counties there is no such independence, and the electoral system there is a "sham" for the most part, because electoral life and all that spirit of independence which the noble Lord the Member for Tiverton (Viscount Palmerston) has pictured in such glowing colours are dead, and in fact the great landed proprietors are the real constituency, by whose influence the county Members mostly sit in this House. I do not go into facts to prove this, because every man must admit in his conscience, if he does not admit it openly in this House, the accuracy and truth of what I am stating. We have heard in this House, and particularly from the hon. Members for North Warwickshire (Mr. Spooner and Mr. Newdegate), what is the state of things in Ireland—that the Catholic priests exercise an undue influence at elections there; and I have no intention of denying it. I think it highly probable that Roman Catholic priests do act at Irish elections as many others do, and exercise a power which they have no right to hold under the stimulus of a strongly contested election. But if Catholic priests in Ireland have that power, the Irish landlords have the same power too; and the unfortunate Irish tenant is in this position, that on the one hand he is threatened it may be with the loss of all temporal good, while on the other he is said (although I know not that it has been sufficiently proved to be so) to be threatened with the loss of all spiritual good, if he act in accordance with the dictates of his own conscience, or, at least, as he chooses to do. Now, I take the last election for Hertfordshire, and I see in the report of the proceedings that took place at the declaration of the poll that the unsuccessful candidate, who was only beaten by forty or fifty votes, affirmed that, if he had only hoisted the banner of the ballot, eighty or ninety of the farmers would have voted for him. Well, if this gentleman made this statement publicly in Hertfordshire, I may take it as some evidence in

favour of the proposition of the hon. Member for Bristol. I rose, however, to speak on a somewhat different branch of the subject. The noble Lord the Member for Tiverton has made, I think, what he said was the first speech he has ever made in his life on the ballot. Well, having never spoken on it before, I am surprised that he did not say something more original. He used arguments that I have heard every Session in the discussion of this question since I have sat in this House. He talks of the "un-English" system we are asked to adopt; but, however, he certainly showed that he was perfectly acquainted with that system by the expert manner in which he explained the mode in which votes would be given by taking the balls in the right hand or the left, and depositing them in the way in which the thing is usually done when the noble Lord votes to elect or reject members in the club of which he is himself a member. Now, I will not discuss whether the practice is un-English or not—a phrase which I know is intended to enlist sympathy for what has no argument on its side, and is used to cover up those disgraceful facts which we all know to take place at our elections—circumstances that are ten thousand times more un-English, if by that term is meant more dishonourable and flagrant, than anything that happens in any country in the world where the ballot is adopted at elections. But the noble Lord thinks this remedy would be no remedy at all. He said he would not have it if it were a remedy, but he does not believe that it is one. Well, he has the misfortune to differ with those who sit near and behind me, and also with the great majority of the electors of this country. The constituencies, so far as they are at liberty to do so, have expressed their opinion with considerable unanimity on this subject; they have returned to this Parliament at least 200 Members who have on one occasion or another given votes in favour of the ballot; and if the number of 200 is no greater, it arises, to a large extent, from the fact, not that there is any difference of opinion with regard to the ballot in the constituencies which return ballot Members and Members adverse to the ballot, but that in the great number of constituencies such is the necessity for this mode of voting that the real and honest opinions of the electors with regard to this question are not expressed, and are, therefore, not represented in this House; and I may refer to the gentleman who was so

nearly being returned for Hertfordshire as a witness with regard to this fact. But, if amongst the constituencies there be such a considerable unanimity on this subject, and if there be 200 Members on this side of the House who have frequently voted in its favour, what I wish to ask is this—how comes it that this question of the ballot makes no sensible progress in the House of Commons? The noble Lord (Viscount Palmerston) is to-night the leader of this House. His Colleague the late Member for the City of London is waiting to be re-elected, but Lord John Russell is just as obstinate and as resolute an opponent of the ballot as the noble Lord the Member for Tiverton. It is not long since we—the supporters of the ballot—were sitting on the Opposition side of the House with these two noble Lords. They, by means of a combination of circumstances and of parties, and by the failure of some schemes of hon. Gentlemen opposite, walked over to this—the Ministerial—side of the House, and we walked over with them, and we accepted them—I am speaking not so much my own sentiments as those of the Gentlemen I see before me, and to the left of me—we accepted them in some sort as the leaders of the party to which we are attached, and we took no security, no guarantee whatever from them, that they should in any of their measures consult the views which we held. They had the security which all Governments have, that they would not be needlessly disturbed; that we would give our votes, at any rate, whenever we could with any sort of conscience, in their favour. Now, hon. Members opposite oppose the ballot. Nothing could be more natural—I do not in the least complain of it. I do not deny that it is a question on which hon. Gentlemen may honestly differ in opinion, but, at any rate, hon. Gentlemen opposite are consistent; they are not in favour of anything that may have the flavour of democratic progress; they do not want this House to be that power or that assembly which the Constitution, as I understand it, intended it should be. They desire that it should owe a strong allegiance to the other House of Parliament, and that the noble Lords and great proprietors who have seats there should also sit here by their nominees and representatives, to influence, to a large extent, the deliberations and conclusions of this House. I do not blame them for that—that is their theory of our Constitution

and Government; but, at all events, that is not the theory of the noble Lord the Member for the City of London. I would not say so much of the noble Lord the Member for Tiverton; but I say of Lord John Russell, that he has professed to hold—whether in their entirety he holds them I know not—principles of a more popular, and, in some sense, more democratic character. But, now, what is the state of the case? Why, that 200 Members sit on this side of the House who are pledged in favour of the ballot—not merely pledges because they have told their constituents that they are in favour of it, but by their conviction that it is the only remedy for the disgraceful practices at elections. Why, we come here and acknowledge as our leaders a number of Gentlemen who sit on the Treasury bench, who, on this great and vital question, deny altogether that we are right, or appear, at least, as if they deny the soundness of the course we wish them to pursue, and they ally themselves, Session after Session, on this question with hon. Gentlemen opposite, to whom they profess to be opposed in politics. And not only those who sit near me, but Gentlemen on that bench, look at the position in which many of them stand. I have here a list of the opinion of what are called generally subordinate Members of the Government. I ought to state that one is not a subordinate Member because he sits in the Cabinet. Now, take first the law officers of the Crown. I have got the name of Cockburn down here, and the name of Bethell—and names more eminent cannot be found in the roll of existing English lawyers. Is this a foolish or absurd proposition that we make, that men so distinguished have always been consistently its advocates? Next there is the hon. Member for Kilmarnock (Mr. Bouverie), the Chairman of Ways and Means, who, if he is not a Government officer, is at least an eminent Member of this House. I have also the names of Colonel Boyle, the hon. Mr. Fortescue, Mr. Keogh, the Solicitor General for Ireland, Mr. Osborne, a Gentleman who could make an admirable speech on this question if he happened to sit below the gangway, Lord Alfred Paget, Mr. Charles Villiers, and a right hon. Gentleman whom, perhaps, I ought not to reckon—and yet the occurrence which has changed his position is so recent—I mean the right hon. Edward Strutt. Now, it is an unfortunate thing for us who are in favour of the ballot that

*Mr. Bright*

the noble Lord the late Member for London, whilst in a very kind manner, as I understood, he invited the late Chancellor of the Duchy of Lancaster to leave the Government, has taken into it the right hon. Gentleman the late Member for Morpeth (Sir G. Grey), who is against the ballot, whilst 200 Members on this side are in favour of this measure, and whilst not less than twelve Members of the Government have voted in its favour, and yet an advocate of the ballot is excluded from the Government, and a Gentleman taken into the Cabinet who, when he was Member for Devonport, was also an advocate of that measure, but who, since he became Member for Northumberland, and afterwards Member for Morpeth, has turned round and voted against it. A ballot man is shut out of the Government, and also a quondam ballot man; but one whose inconsistency is glaring is taken in as part of the Cabinet. Then there is the right hon. Baronet the Member for Southwark (Sir W. Molesworth). I observed, not long ago, that he, in a speech to his constituents, adhered to his ancient opinions in favour of the ballot, and he voted last year in support of it; and I have not the slightest doubt at this moment that on all future occasions he will pursue the same course. He holds the opinion that I now hold, that the ballot is the real remedy for the grievances and the evils of which we complain. And when the noble Lord the late Member for London stands up, and when the noble Lord the Member for Tiverton gets up, as he has done to-night, and in a very showy manner appeals to hon. Gentlemen opposite, with whom his sympathies always seem to go, and makes a speech against this proposition, which has the support of 200 Members of this side of the House, and almost the unanimous support of the constituencies of the country where they can speak out—I say the right hon. Baronet the Member for Southwark is a man whose opinion on a question of this nature is as much worth taking as that of any of his Colleagues; and I have some confidence that Parliamentary, and even official, etiquette will not on all occasions prevent his expressing his free and honest opinion to this House. Why, the right hon. Gentleman entered the Government under peculiar circumstances. It was the boast of the framers of the present Government that it represented all shades of the Liberal party. Now, I do not think the Cabinet does ade-

quately represent that shade of the Liberal party understood to be connected with the question of the ballot; but I think we may trust in the right hon. Gentleman (Sir W. Molesworth), whether in this House or in the Cabinet, or wherever he is—and I think his past course shows that we may rely upon him—and feel satisfied that, at any rate, he will lose no opportunity for maintaining amongst his Colleagues those principles which he maintained amongst his constituents, and whilst he was an independent and unofficial Member of Parliament. Now, the question that occurs to my mind is, what should we do to have the ballot passed? I admit that I am thoroughly weary of this discussion. I did not believe it possible for anybody to make a speech at once so amusing and so convincing as the hon. Member for Bristol (Mr. H. Berkeley) has done, on a question that has been so much discussed as this has; but, nevertheless, I am weary of the discussion, and should be very glad not to have to open my mouth again in favour of the ballot. I would rather see it practised in the counties and boroughs. But what should we do? There is a duty of the electors and a duty of the elected in this matter. The electors in every borough, where they have had an opportunity, have returned a Liberal Member to Parliament. I should prefer to use a better term than “Liberal” if we had it, but I mean a Member on this side of the House. I hope all the constituencies will make up their minds soon, that, be the candidates what they may be in other respects, they will make this question of the ballot a testing question, and not allow men to come into Parliament in their name—in the name of what is liberal, just, and free, and then, in my opinion, to violate all that I think they do violate when they declare that the great body of the electors of this country—poor men, as many of them are, and exposed to these evils—shall not have the shelter of secrecy of voting in the exercise of their franchise. Well, now, what is our duty—the duty of 200 Members of this House? By whose suffrages, I ask, do these men sit on the Treasury bench? Why, very often, I must, say, by the suffrages of hon. Gentlemen opposite. Whose were the cheers which the noble Lord the Member for Tiverton received to-night? Why, I heard but one feeble voice from a back Ministerial bench—feeble, no doubt, as the mental power which brought its utterer to the conclusion at which he appears

to have arrived—I say, with the exception of that solitary feeble voice, I did not hear a single cheer from this side in favour of the noble Lord; but his whole speech, on the other hand, was received with perfect enthusiasm and rapture by hon. Gentlemen opposite. Well, I only wish if the noble Lord be the natural leader of hon. Gentleman opposite that they really had him. For my part I repudiate altogether the leadership of men who, pretending to be liberal, and acting by the support of the votes of men on this side of the House, pertinaciously refuse, year after year, the smallest concession on a question on which the great majority of the House has made up its mind long ago. I appeal to hon. Gentlemen opposite. Do not we occupy a very absurd position? I am not at all ashamed to confess it; I have held this opinion for a long time. We have in this particular respect and in some others a Conservative Government. You will never have a more Conservative Government than this. Lord Derby's Government never could be called more Conservative, nor could the Government which is no doubt preparing in some secret recesses to which we have no access, but which we may hear of hereafter as the successors of the present Government, possibly be more Conservative. Yet we are professing to hold our own opinion on this question, which is one of a magnitude that is most vital and important, and we regularly make it a part of our addresses to our constituencies, and annually the hon. Member for Bristol brings it before the House, supporting it by arguments that no man is capable of meeting, and yet the moment the division is over, the whole question of the ballot is stifled, and we hear no more of it till the same hon. Gentleman picks up the courage to bring it on and discuss it in another Session. Why, what we want to do is this, and any fifty Members on this side of the House can do it, that is, to say to the leader of the House when he comes back amongst us, and say also to Lord Aberdeen and those hon. Gentlemen who have come to find that the air of the Treasury bench agrees remarkably well with them—to say to them, “We do not wish to take your places, and send you to the other side of the House, but if you mean to be the leaders of this party, if there is one thing that we are more resolved upon than another, and about which we are unanimous, it is the question of the ballot, and we insist upon it that you take

up that question, and by our help pass it through Parliament, or else you understand that you are not our leaders, and we are not your followers. You may have your followers, and there may be those who wish to have you as their leaders—make your arrangements with your supporters, and carry on the Government with their support; we at least are determined to stand up for our own policy and our own convictions, and would infinitely prefer to sit on the other side of the House in opposition, maintaining what we believe to be true, than to sit behind you watching you betray and oppose everything that we believe to be most essential for the interests and welfare of the country." Now, that is the course I would recommend hon. Gentleman on this side of the House to adopt; and I will tell them boldly and freely that they will not do their duty to their constituents, who are anxious for the settlement of the question, nor do their duty towards public morality, which suffers so much from the want of the success of this measure, if they go on in this way year after year discussing, arguing for, dividing upon, and registering their opinions in its favour, and take no further step whatever to carry those opinions into practical effect. Now, the noble Lord (Viscount Palmerston) does not think the evils which exist are very great. I will not argue the point with him, because I feel convinced that every man knows that they are great. I believe there is no man in this House who pays the slightest regard to what happens notoriously in the country who will not admit that at almost every contested election at which he is present, scenes, and many scenes, take place that he feels are not only degrading to his country, but degrading to human nature itself. I believe so great is this evil, that it very much warps all your efforts, whether by education or by religious influence, to improve the standard of morality, patriotism, and honourable feeling amongst your countrymen. I cannot find that any man who is opposed to this question has been able to show—however he might dispute the amount of good it would produce—that any harm would arise from the experiment of the ballot. The only argument which the noble Lord had used was that which had been always used, namely, that if a man were forced to promise against his conscience, and voted against his promise, he would be guilty of a lie, and his morality would be injured. The noble Lord appears not to

*Mr. Bright*

be aware of the fact that if a man is made to promise contrary to his conscience, he by that promise is equally guilty of immorality; and if he votes in accordance with that promise, he doubly violates the rule which the noble Lord professes to support. The effect of the ballot would be that men would not be going round, in the same manner, as at present, with a lawyer, with a landlord, or with a customer, or a half dozen or one dozen of men who are supposed to have a lime twig for every voter they come amongst. That considerable class of electors who do not vote at all, and it is a large percentage of the whole number—that class that is forced to vote against their will, or vote conscientiously at an imminent risk—all those classes, sheltered under this power, would spurn the men who came to ask them, and the men who would ask them would feel that under the shelter of this ballot they would have no power over their victims. The candidate would not then get a vote by intimidation or threats, but might get a vote by kindness, argument, and persuasion. I do not see why this should be a party question, for I believe that there are many cases in which the return would not be influenced by the ballot; but when I see cases of hardship and tyranny, such as are enough to break the heart of any man, if, by giving the shelter of the ballot, I can give only to a few of those unfortunate slaves of will and power in this country, liberty and freedom, I would on that ground alone be induced to vote for this measure. I was looking at the right hon. Gentleman the Member for Midhurst (Mr. Walpole) during the speech of the hon. Member for Bristol, because that right hon. Gentleman is sitting with me on a Committee upstairs, where he is endeavouring to prevent bribery at election, and to put an end to those evils without the ballot. The right hon. Gentleman thinks he is engaged in a hopeful, but he is engaged in what I consider to be a hopeless attempt. I do not think it is possible for any mode of punishment to prevent the commission of these offences. In cases of bribery, both parties—the giver and the receiver of the bribes—were interested in keeping the transaction secret. It was not like a case of pocket-picking, where one party was aggrieved and the other was an aggressor, and where the party aggrieved endeavoured to bring the aggressor to punishment. In those cases both parties are equally guilty, and you cannot

by any system of punishment put an end to it. The noble Lord the Member for Tiverton says the ballot is un-English; but if a man were afraid of a mob, and wished to drive to the hustings in a cab instead of walking through the mob, the noble Lord might as well say it is an un-English practice for that man to conceal himself within that cab. It is not the adoption of a new principle that is proposed; it is merely that the voter shall give his vote by a certain machinery which will protect him against the influence of his landlord, his creditor, or his customer; and, having given him a vote you should allow him to give that vote in accordance with the dictates of his own conscience. You have given the voter the trust, and, contrary to every principle of law, you refuse him the means absolutely necessary to fulfil the trust committed to him. I am ashamed of having detained the House so long, but I was induced to do so because I was satisfied that the question of the ballot was one about which the electoral body cared more than any other, and I am convinced that if fifty Gentlemen on this side of the House are determined to have the ballot, or not to be the supporters of a Government who will not sanction it, then, that either the present Cabinet, or one hereafter to be formed, would introduce the question with a view to its being carried.

Mr. WHITESIDE said, he would be content to leave the question of principle to the argument of the noble Lord the Member for Tiverton. The hon. Member for Manchester (Mr. Bright), had frankly avowed that he would not argue the question—and he showed his discretion by keeping his word. He (Mr. Whiteside) was satisfied that the noble Lord (Viscount Palmerston) had spoken the sense of the House and of the country on the question, and had placed it in a position which it had not occupied before by his manly, eloquent, and purely English speech, which he (Mr. Whiteside) thought ought to convert, if it had not converted, the right hon. Member for Southwark (Sir W. Molesworth). The hon. Member for Manchester said, that there was no argument in the speech of the noble Lord; but, nevertheless, the noble Lord had pressed one argument upon the point which, in his (Mr. Whiteside's) mind, and he believed also in that of the House, was irresistible—namely, that the franchise was in the nature of a trust, to be exercised for the use and

benefit of the community at large; and that it should, therefore, be exercised openly and above board. That argument had not been answered by the hon. Member for Manchester, except in a mode to which that hon. Member was only too much accustomed, and which only satisfied the hon. Member himself; for the hon. Member assumed that every man must be morally wrong who differed in opinion from him. The hon. Member for Walsall (Mr. C. Forster) had asked how an English House of Commons could refuse the ballot to Englishmen when they saw how it operated in France. But he (Mr. Whiteside) would ask, in return, had the ballot preserved constitutional freedom in that country? On the contrary, had it not, by other aid, utterly annihilated and destroyed it? Another hon. Gentleman had referred to America. Had the ballot repressed external violence and bloodshed at elections in America? He (Mr. Whiteside) had preserved an account of the late election for New York, the capital of the great Republic, and what story did it tell? The statement was to the effect that the scenes of disorder and violence that ensued would take volumes to detail. If the ballot was what the hon. Member described, why should violence, disorder, and bloodshed have characterised the election at New York? That single fact countervailed the argument of the hon. Member in the most effectual manner. He (Mr. Whiteside) did not mean to say that these scenes were produced by the ballot, or that the ballot was adverse to the republican form of Government; but he did mean to say that it was entirely unsuited to a limited monarchy, and that it was not of power to prevent disorder, bloodshed, and violence. It was urged that the ballot would ensure secrecy, and so protect the voter. If, however, any great example could be shown where it did not effect these objects, the assertion fell to the ground. That such was the case, he (Mr. Whiteside) thought he could prove. The hon. Member for Manchester said the landlords in this country persecuted their tenants if they voted otherwise than in accordance with their wishes. He (Mr. Whiteside) believed that to be exaggeration as regarded the gentry of England, who certainly were not tyrants by nature, but who, on the contrary, were the preservers of that liberty which had been obtained for them by the blood of their forefathers. But supposing them to be tyrants, what operated upon them at

present to repress their assumed tendencies? Why only public opinion, a free press, and the expression of the just indignation of all honest and moral men in the community. If, however, the ballot was adopted, there would be no longer any check upon them; the landlords in that case might persecute as much as they chose, and to any remonstrance they might reply that the vote being secret they knew nothing of it, and therefore could not be presumed to persecute on that score. The ballot consequently would protect the persecutor, if such there was, as well as the voter. But even supposing the hon. Gentleman could protect the voter against his landlord, how could he protect him in Ireland, for example, against the priest? He would admit that the influence of a landlord might operate unfavourably upon the mind of a tenant voter; but at the same time, he could not allow that the influence of property, station, education, and ability was other than a wholesome influence, and not tyranny. But even admitting that the landlord's influence was improperly exercised, he (Mr. Whiteside) would ask, was the influence of the priest never exercised in the same manner? How did the hon. Gentleman propose to protect the voter, therefore, from the priest and from the confessional? He had no doubt that every hon. Gentleman returned by those influences would vote for the Motion in order to give increased power to the priesthood in the elections, and at the same time it would give the voter no protection against them. The hon. Member, however, when he complained of the persecutions of landlords in this country, should also look at the election records of Ireland, and should note the scenes that took place in Cork, Clare, and other parts of that country, where property, fortune, and intelligence were beaten down and trampled under foot by priestly influence. There was, in fact, only one body in the empire exempt from its fatal effects—that body was the Freemasons, who had set it at defiance, though many Members of that body were Roman Catholics. But what was the result? Why the society was denounced by the priests because it professed secrecy. The fact was that the boasted ballot of the hon. Gentleman would disclose to priests all that which he was so anxious to conceal; and so leave the voter still more unprotected than he was at present—at least in Ireland. The hon. Gentleman had alluded to America in illus-

*Mr. Whiteside*

tration of his case. But had the ballot taught freedom to America—freedom in its right sense? Had it taught them to grant liberty to their slaves. If the system of England was contrasted with that of this boasted Republic, it would be found, even on the most cursory view, that the rights of humanity which were trampled under foot in America were here held sacred. The ballot, in fact, had not taught Americans to liberate their fellow men from bondage; and they would continue disgraced, in the words of Channing, and a stain would rest on them, until they copied the vote of the English Parliament and set their slaves free. The hon. Gentleman had said the ballot would cure bribery and corruption, and he had stated that there was a number of cases of corruption arising out of the last elections. He (Mr. Whiteside), however, asserted that not one case had been shown in which there was any hesitation on the part of the House to unmask corruption, and that in no instance in which it was proved did it escape punishment. But was the hon. Gentleman right when he argued that corruption would be punished through the ballot and the briber reached? He (Mr. Whiteside) for one saw no machinery by which those objects could be accomplished. As to the notion of preventing bribery by punishment, that was a thing not to be done. As long as human nature was vicious, so long would corruption be of effect, and he feared it would be more effective under the operation of the ballot than before. Much had been said of the freedom of the secret vote, but what country in Europe enjoyed real liberty, except this country, where the ballot had no existence? What need to speak of France, Belgium, or Sardinia? If the liberty of England became the prey of tyranny, how long would the system in either of those countries stand? Not a moment. Liberty was not preserved by the ballot, and it would exist when the ballot was no longer heard of. Liberty existed alone through the virtue of the great mass of the people, and it was unfair, therefore, to this country to say that it was going backward, because it had not the secret vote. Of all the political crotchets ever invented, he thought the secret vote was that the least calculated to increase the stock of public virtue in any country, or to stimulate the intelligence of the people. If there were, as the hon. Member (Mr. Bright) stated, a body of persons in this country who could not

exercise the right to vote which they possessed without injury to their pocket, that only proved that the franchise had gone too low. The franchise was given to a man because he was supposed to possess a free will; and it should not be given to him if he did not. There was a great, an intelligent, and an independent body of persons in this country who could exercise a beneficial influence upon the public mind; but it was different in other portions of the empire. The argument of the noble Lord, however, had in his (Mr. Whiteside's) opinion answered every suggestion in favour of the ballot; and he fully coincided in that argument.

SIR WILLIAM MOLESWORTH: \*  
Sir, my hon. Friend the Member for Manchester (Mr. Bright) has appealed to me in such strong but courteous terms that I cannot refrain from addressing the House on this subject. The hon. and learned Gentleman (Mr. Whiteside) who spoke last supposed that I must have been converted by the speech of my noble Friend (Viscount Palmerston) near me. I listened to that speech, as in duty bound, but though I always admire everything that comes from my noble Friend, I must say I do not think his arguments against the ballot were very convincing. In fact, they were nothing more than the stock-in-trade arguments of the opponents of the ballot, which we have heard refuted over and over again *usque ad nauseam*. I assure my hon. Friend that I have never wavered or faltered in opinion on this subject since the period when my Friend (Mr. Grote) made his celebrated Motions in favour of the ballot, one of which I had the honour of seconding eighteen years ago. Since then that question has been repeatedly and ably discussed in this House, and I think that I must have heard every argument urged that can be urged either for or against secret suffrage. The result has been to strengthen my conviction that no measure ever can or ever will be really effectual in checking either bribery or intimidation which does not contain a provision that the votes of electors shall be given in secret.

As I have never heard any argument of any force in refutation of the position that the ballot is the only legislative measure which could put an end to intimidation, I will confine my observations chiefly to the disputed question of the efficacy of the ballot in arresting the progress of bribery. This is a most important question at present; for every one admits that bribery

has prevailed of late to such an extent as to compromise, and seriously compromise, the character of this House, and to cast discredit upon the representative institutions of this country. Both Houses of Parliament have, therefore, in reply to the Speech from the Throne, declared that it is necessary to take new and more effectual precautions against corrupt practices at elections. Now, what ought those new and more effectual precautions to be? Ought they to be analogous to the old ones, which after so many amendments have proved unsuccessful, or ought they to be of a new and different description? That is the question at issue between the friends and the opponents of secret suffrage.

My conviction, that no measure will ever prove effectual in checking bribery which does not contain the ballot, is founded upon an examination of the reasons why the laws which have been passed against bribery have failed. That those laws have failed both sides of this House admit, for both sides have brought in a Bill to amend those laws. Those Bills have been referred to a Committee upstairs; but I agree with my hon. Friend the Member for Manchester that the labours of those hon. Gentlemen will prove vain and useless, unless we assist them with the ballot. Why have the laws against bribery failed? I attribute their failure to the fact that they are merely penal enactments, the object of which is to deter persons from giving or accepting bribes through fear of the punishment to be inflicted in the event of detection and conviction. Now, a penal enactment can only fail from two causes—either from the inadequacy of the punishment threatened, or from the difficulty of detecting the offence and convicting the offender. To which of these two causes is the failure of the laws against bribery to be attributed? Not, certainly, to the inadequacy of the threatened punishments, for they are severe, consisting of pecuniary penalties varying from 500*l.* to 1,000*l.*, accompanied by disfranchisement or disqualification. If the severity of these punishments were to be increased, the public would probably consider them to be excessive and out of proportion to the moral turpitude of the offence; then judges and juries would become more unwilling to convict than they are at present, and the result would be increased impunity. And, indeed, there is reason to believe that the public consider that the punishments at present at-

tached to giving or taking bribes are excessive; because, though hon. Gentlemen are sometimes uneated by Committees of this House, for bribery by their agents, yet they are rarely convicted, and generally acquitted, of any personal knowledge of the bribery, and I do not remember any instance of an hon. Member having been convicted of bribery by a court of justice; yet I think there can be no reasonable doubt that, after every general election, there must be many hon. Members in this House who are morally guilty of bribery. I think, however, that the impunity which generally attends bribery should be attributed to the difficulty of detecting the offence and convicting the offender. That difficulty arises from the peculiar nature of the offence of bribery, which is very different from that of the great majority of offences. Generally speaking, when an offence is committed, there is some overt and patent act which manifestly inflicts sensible wrong upon some person, as, for instance, when a man is robbed or assaulted; then the injured person knows that he is injured, feels that he is wronged, and is prompted by his knowledge and feelings to seek out the offender and to bring him to justice. Not so when the offence of bribery is committed. In that offence there is no overt nor patent act which manifestly inflicts sensible wrong upon any person. For the offence of bribery consists simply in the transfer of money or money's worth from the briber to the bribed; that act need only be known to the two persons concerned in it, who are not injured by it, but who have strong motives to conceal it—strong in proportion to the punishment threatened for it—and if they keep their counsel, the person injured by the bribery can never know that he has been injured nor feel that he has been wronged. This essential difference between bribery and the generality of offences was clearly pointed out by my noble Friend the Lord President of the Council (Lord J. Russell) when he introduced his Bill to amend the laws relating to bribery, treating, and undue influence at elections. My noble Friend justly remarked that it was a very difficult task for the Legislature effectually to arrest the progress of bribery. I believe that the Legislature will never accomplish that task by means of penal enactments alone. For we cannot by such enactments so alter the nature of the offence of bribery as to render it less

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difficult of detection, and if we were to endeavour to counterbalance the hope of impunity arising from difficulty of detection by threats of severest punishment, our Draconic laws could not be enforced, and our threats would prove vain. Therefore, if we want to arrest the progress of bribery, we must not rely only upon penal enactments to deter men from committing that offence, but must try to combine with such enactments measures calculated to take away the motives to commit bribery, by diminishing its efficacy, and by rendering it less difficult of detection.

I think the ballot is a measure of this description. My position is, that it would diminish the efficacy of bribery, and put an end to every kind of positive bribery except that which is the least effectual and the least difficult of detection. To sustain this position, I must observe that positive bribery may be divided into three kinds, according to the period when the payment of the bribe is made. The first kind is, when the bribe is paid before the elector votes, on his promising to vote for the bribing candidate, whom I will call A. The second kind is, when the bribe is paid after the elector has voted, and in consequence of his having voted, for candidate A. The third kind is, when the bribe is paid after the return of candidate A, and in consequence of his return. I contend that the ballot would put an end to every one of these three kinds of bribery, except the third kind, which, with the ballot, would be the least effective and the least difficult of detection. I must, therefore, ask the House to consider what would be the effect of the ballot on each of these three kinds of bribery.

The first kind of bribery—namely, when the payment of the bribe is contingent only on the promise of the corrupt elector, is rarely and never willingly practised by skilful and experienced agents, even with open voting; for when the bribe has been paid beforehand, the briber has little security that the bribed will fulfil his dishonourable engagement, and not sell his vote for a second bribe to the opposite party; in fact, the briber has no security except such as may arise from a feeling of false honour on the part of the bribed, or fear of being reproached for not keeping his promise. It is evident that the strength of these feelings would be very much diminished, and in many cases entirely destroyed, by secret suffrage. With the ballot corrupt electors would, when they could, take

bribes from both sides, and then vote honestly according to their convictions. For corrupt electors frequently have strong political opinions, for which they are willing to make considerable pecuniary sacrifices; and it is a well-known fact that corrupt electors will oftentimes vote for a popular candidate for a less bribe than for an anti-popular one. I think, therefore, that with secret voting the first kind of bribery—namely, paying before the vote is given—will be rarely, if ever, practised, and when practised that the result will frequently be honest voting.

The second kind of bribery which I have mentioned, is when the payment of the bribe is contingent on the fact being ascertained that the corrupt elector has voted for the bribing candidate. This is the ordinary mode of bribery, the most business-like and economical one, in which the least money goes furthest; for money is only paid when it is known that votes have been actually given for the bribing candidate. The definition of this kind of bribery shows that it must necessarily cease with open voting.

The third and last kind of bribery to which I have to call attention, is when the payment of the bribe is contingent upon the return of the bribing candidate. It is evident that this kind of bribery might be practised with secret as well as with open voting, but with this most important difference, that with open voting, in the event of the bribing candidate being returned, only those electors would be paid who had fulfilled their promises of voting for candidate A; but with the ballot the electors who had promised to vote for A would have to be paid, whether they had performed their promises or not. It would seem on first thoughts that this kind of bribery would be the most advantageous for a bribing candidate, for he would only have to pay when the object of his wishes was accomplished, and his return obtained. But with open voting it is rarely, if ever, practised; and the reason is obvious on reflection. It holds out far less temptation to the corrupt elector than the ordinary mode of bribery. For in the ordinary mode the corrupt elector is paid for having voted for candidate A; and as the payment is contingent upon an act within the power of the elector, the payment is certain if the elector wills it. On the other hand, in the third mode of bribery, the payment is contingent on the return of candidate A. The payment is, therefore, uncertain, and de-

pends upon an uncertain event, over which the individual elector can have no control, except in the rare case of his vote being the casting vote of the election. Consequently, corrupt electors prefer the first to the third mode of bribery; and it is evident, likewise, that a much smaller sum of money, to be expended in the payment of votes as soon as they are given, would be far more efficacious in determining the votes of electors than the promise of a much larger sum of money to be paid only in the uncertain event of A being returned. Therefore, the third kind of bribery would be much more expensive than the first kind; it could only be practised by larger capitalists, and, consequently, by fewer persons.

It is supposed, however, that bribery of the third kind would be much practised with secret voting. I do not believe that it would be. But if it were, my position is, that with secret voting it would be much less efficacious and much less difficult of detection than the ordinary mode of bribery with open voting; and therefore that the ballot, by putting an end to every other kind of bribery, would do much towards arresting the progress of corruption. To prove this position I must institute a comparison between the two kinds of bribery to which I have just referred—namely, between the ordinary mode of bribery with open voting, in which the bribe is paid to the elector who has promised to vote for candidate A as soon as he has fulfilled his promise, and the supposed mode of bribery under the ballot, in which the bribe would only be paid to the elector who had promised to vote for candidate A when A was returned. In the ordinary mode of bribery with open voting, the corrupt bargain is clear, simple, and direct. "Vote for A" (says the briber to the corrupt elector), "and you shall have a 5*l.* note; vote for B, and you shan't have a farthing from us." But in the supposed mode of bribery under the ballot the corrupt bargain would be, "If A be returned you shall have a 5*l.* note, whether you vote for or against him; and if B be returned, you shan't have a farthing whichever way you may vote." Therefore, with open voting, the temptation to the elector to vote for A is the certainty of obtaining a 5*l.* note; with secret voting, the temptation to the elector to vote for A would depend upon the elector's opinion of the effect of his vote on the probability of A being returned. If the elector thought that the return of A would depend upon

the elector's own individual vote, then the temptation to vote for A would be nearly the same as with open voting, and equal to the certainty of receiving a 5*l.* note. But if the elector thought that the success or failure of A was independent of the elector's own individual vote, then he would have little or no motive to vote for A against his convictions; because by the hypothesis in the elector's opinion the return of candidate A, and consequently the pecuniary result to the elector, would be the same whichever way he voted. Now, as it rarely happens, even with open voting, that an elector thinks that the result of a contest will depend upon his casting vote, I think that with secret suffrage an elector, acting singly and alone, would be little influenced in his vote by the promise of a bribe to be paid in the uncertain event of the bribing candidate being returned.

It is said, however, that with secret suffrage corrupt electors would not act singly and alone, but in combination, and that collective bribery would be substituted for individual bribery. For instance, it is said that a body of electors, sufficient in number to decide a contest, would combine together to be bribed; that a bargain would be made with them to the effect that each of them should receive a certain bribe—say 5*l.*—in the event of candidate A being returned; that each of them would perceive that if they acted together and voted together, candidate A would be returned and they would be paid. Thence it is inferred that they would act together and vote together, and that their temptation to do so would be nearly equal to the certainty of obtaining a five-pound note a-piece, or nearly equal to what it is in the ordinary mode of bribery with open voting. I will, for the sake of argument only, assume the validity of these positions; though I must remark that many an elector who would take a five-pound note, put it into his pocket, and vote for A, hoping that nobody but the briber would know anything about it, and that the blot on his character would never be hit—would be ashamed to deliberately combine with all the scoundrels of the neighbourhood, and would be very reluctant to have his corrupt conduct generally known to his neighbours. Men, except of reckless character, are unwilling to have their sins known even to fellow sinners. Therefore I believe that collective bribery could only be practised upon the corrupt and hardened. But I maintain that such collective bribery would be very liable

to detection, and much less likely to escape detection than the ordinary mode of individual bribery with open voting. For how is bribery generally practised with open voting? The briber says to the elector, "Vote for A, and you shall receive five pounds." Then, when the day of election comes, the corrupt elector goes to the poll, votes for candidate A, receives a ticket, takes it to a stranger in a dark room in an out-of-the-way street, and receives a five-pound note; there the transaction ends. It needs only be known to the three persons concerned in it, namely, the bribed, the briber, and the stranger; and if they keep their own counsel, detection is almost impossible. But with collective bribery and secret voting the promise of the bribe must be made, not to individual electors separately (for I have shown that an elector acting singly and alone would be little influenced by the promise of a bribe to be paid in the uncertain event of a bribing candidate being returned), but the promise must be made to the body of electors who are assumed to be leagued together for bribery and combined action. Each of them would therefore be aware that many electors besides himself were to be paid in the event of candidate A being returned. Now, it is evident that to produce any effect by this mode of collective bribery with the ballot, the promise of a bribe must be made to a considerable body of electors—considerable, I mean, in proportion to the numbers of a constituency. For with the ballot it would be no use to promise a dozen or so of electors that they should be paid in the event of candidate A being returned. At present, with open voting, even in a considerable constituency, an election may be gained in a close contest by the judicious purchase of a small number of votes; but with the ballot nothing of this kind could be done. With the ballot the only effective bribery must be wholesale and collective. A moment's reflection must convince any hon. Gentleman that if with the ballot he should wish effectually to bribe a constituency, he must promise to pay in the event of his return as many electors as, in addition to those upon whose unbought promises he could confidently rely, would constitute a majority of the constituency. For instance, suppose the constituency to be bribed contained 1,000 electors—suppose an hon. Gentleman could confidently rely upon the unbought promises of 300—thirty per cent (a large proportion in a

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corrupt constituency with the ballot)—then to secure his return the hon. Gentleman would have to promise to pay in the event of his return a body of 201 electors in order to be certain of a majority; in the same manner, in a constituency containing 10,000 electors, the hon. Member would have to promise to pay, in the event of his return, a body of 2,001 electors. Now a promise made to so many electors, and known by each of them to be made to so many, could not be kept secret from the rest of the bribable class of the constituency; then not only those who had voted for A, but those who had voted for his antagonist, would demand payment in the event of A being returned. In what a horrible dilemma an hon. Member would be placed who had obtained his return in this manner! I ask any hon. Gentleman who is conversant with this subject to put himself in the position of such an hon. Member; to fancy that he had secured his return by a promise to pay a large body of electors; that, having fulfilled his promise, he received applications for payment from a large number of other electors. What would you do? What would you say? You could not refuse payment to any elector on the ground that he had not voted for you, because with secret suffrage you could not tell how he had voted. If you were to refuse on the ground that he was not one of the body of electors whom you had promised to pay in the event of your being returned, he would probably tell you that it was a shame that you had not promised him; that he was as ready and willing to be bribed as any one; that he had voted for you; and as you were returned, that he had as good a right to be paid as his neighbours. If you still persevered in your refusal, you would make an enemy who knew your secret, who had perhaps voted for you, who would be revenged upon you, and who would do his best to have you detected and convicted. On the other hand, if you paid him out of fear, you would have to pay every one of the bribable class of electors in the constituency; therefore, in some constituencies, you would have to pay all who had voted for you and all who voted against you; you would be ruined in consequence of the numbers whom you would have to pay, and in proportion to the numbers whom you did pay would be the chance of your detection. Therefore, in all cases your chance of detection would be much greater than at present—in many cases it would amount to a cer-

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tainty. Then you would be convicted, severely punished, disqualified from sitting in Parliament; your constituency ought to be disfranchised, a new and pure one substituted, and its purity would be preserved by the ballot.

One of the most beneficial consequences which I should expect from the ballot, would be the preservation of the purity of constituencies that with open voting are in perpetual danger of being corrupted. I firmly believe, that if the ballot had formed part of the Reform Bill—if it had then been adopted by Lord Grey's Government, many constituencies which have since been a disgrace to our representative system, would have remained pure. For I have shown that the ballot would have put an end to every kind of bribery except wholesale and collective bribery. Now, wholesale and collective bribery cannot be introduced at once into a pure constituency. The adage "*Nemo repente fuit turpissimus*" is as true of constituencies as of individuals. The history of corrupt constituencies shows that bribery has been gradually introduced into them. I think such gradual introduction of bribery would be impossible with secret suffrage. I will state my reasons for this opinion.

If the history of the constituencies which have been corrupted since the passing of the Reform Bill be examined, the origin of the corruption may be traced either to a closely contested election or to the bribery of unsuccessful candidates. In the case of the closely contested election, the contest was generally decided towards the close of the poll by the votes of a few electors who were bribed. In such a case parties were nearly equal and animated by strong party feelings. When the day of election came, the race between candidate A and candidate B was neck and neck; alternately the one, alternately the other, leading. Towards the end of the day nearly one half of the electors had voted from party feelings for A, and the other half from similar feelings for B. The constituency was nearly polled out, only a dozen or so electors remained unpollled—a number sufficient, however, to decide the election; they were the scum of the constituency; open voting made them the arbiters of the contest, and empowered them to determine who should be the representative of the constituency. They were indifferent to the merits of A or B; they might, perhaps, have been influenced by threats, but they were most easily acted

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upon by hopes of immediate gain. In the excitement of the contest, such hopes were held out to them by some friend, or agent, or partisan of A. A was returned, and bribery was introduced into the once pure constituency. Bribery once introduced, A's party could never again be confident of success without bribing those whom they had bribed before; and B's party could never hope to defeat A without also having recourse to corruption. A corrupt struggle then commenced; each party strove to seduce and corrupt the electors of the opposite party, and with each successive contest the number of bribed electors increased. Both parties, being equally guilty of corruption, equally abstained from attempting to punish each other. Now it is evident that in the first instance the motive which induced A's party to bribe was founded upon an exact knowledge of the state of the poll, and that the few votes of the unpoll'd electors would decide the contest. With the ballot such knowledge would not have been possessed, the motive to bribe would not have existed, bribery would not then have been introduced, and, protected by the ballot, the constituency might have remained pure.

With regard to the corruption of constituencies by the bribery of unsuccessful candidates—in this manner many constituencies have been gradually corrupted since the passing of the Reform Bill. At first these constituencies were very pure; they prided themselves upon returning their Members free of expense. This conduct, however, was distasteful to some persons, who had knowledge or experience of the profits of a contested election. They determined to get up a contest; then one of their number—generally a low attorney—went to London to search for a candidate; he haunted the purlieus of the clubs till he found some person with more money than principle, frequently some rich parvenu who aspired to the social position of a Member of Parliament. This person—whom I will call the bribing candidate—was informed that there was an opening in such and such a borough for a candidate of opposite opinions to the sitting Member; he was invited to hold those opinions and to stand, and he was told that he might be returned for a few hundreds. The invitation was accepted; a contest ensued on the first opportunity; during the contest large sums of money found their way from the pockets of the bribing candidate, through mysterious channels, into the

pockets of some of the electors who had manifested their approbation of his political opinions. In the first contest he was defeated, for the great majority of the electors were pure; and being defeated, his corrupt practices, though known, were not punished. Thus the seeds of corruption were sown in the pure constituency; they germinated rapidly, and produced fruit. Those who had once tasted the fruit of corruption longed to taste it again; they communicated their longing to their neighbours. In a second contest the number of electors willing to be bribed increased, and the bribing candidate was defeated by a smaller majority. So it went on; in each successive contest more electors were bribed, and the bribing candidate was defeated by narrower and narrower majorities; finally he obtained a majority, or the opposite party commenced bribing in self-defence; in either case the constituency became thoroughly corrupt. It is evident that this process of seduction and corruption could not have gone on with secret suffrage; for I have shown that the ballot would put an end to every kind of bribery except that in which the payment of the bribe would be contingent on the success of the bribing candidate, and, consequently, it would put an end to all bribery by unsuccessful candidates.

I have shown that the ballot would put an end to every kind of bribery except that in which the payment of the bribe would be contingent upon the return of the bribing candidate; that such bribery, to be effective, must be wholesale and collective; that wholesale and collective bribery would be very liable to be discovered, and far less difficult of detection than the ordinary mode of bribery with open voting. Thence I infer that by the aid of the ballot the penal enactments against bribery, which, in consequence of the difficulty of detecting bribery, have hitherto proved inefficacious, would become effective in arresting the progress of bribery—a progress which all friends of constitutional liberty must deplore, as it casts discredit upon this House, and saps the foundations of our representative institutions.

There is one objection to the ballot which I must now notice. It is sometimes said, that in secret, electors would vote contrary to their known opinions from corrupt motives, who would be deterred from openly doing so by the public opinion against bribery, and thus that the influence of public opinion against bribery

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would be weakened. It would be easy to show that there is no validity in this objection to the ballot. But, omitting other answers to it, I will content myself with expressing a strong doubt whether the public opinion that influences the actions of the bribable class of electors is hostile to bribery, or ever will be hostile to bribery as long as intimidation is practised by the upper class of electors.

I must observe, that the public opinion that determines the actions of particular men is not the opinion of the whole community, nor of the majority of the community, nor of the respectable, nor of the intelligent portion of the community, but of the class or section to which the men belong. Now, the class to which the takers of money-bribes belong, especially in corrupt constituencies, do not look upon the taking of a bribe as a blameable or discreditable act. If you converse on this subject with an intelligent man of this class, he will justify his conduct by specious arguments difficult to refute. He will cite the example of his betters—of his superiors in station or in rank. He will say to you—

"Why should I, who am a poor man, refuse to make a few pounds by my vote, for the benefit of myself, my wife, and my children? In taking a bribe, is my conduct more corrupt than that of the shopkeeper, who votes against his conscience to secure the custom of his customers; or that of the tenant, who sees in his vote the means of currying favour with his landlord, and procuring an abatement of his rent? It is true that I desire to be rewarded for my political conduct; but so do many others, my superiors in station, wealth, and education; so does the squireen, who influences half a dozen electors; so does the large landowner, whose fifty-pounders are counted by the score; so does the mill-owner, who can put the screw on a hundred ten-pounders; so does the great territorial magnate, who intimidates a whole county. If I desire money in return for my vote, they expect money's worth in return for their influence. The squireen asks for his dependents petty places in the Customs or Excise; the large landowner wants for his younger sons a clerkship in the Treasury or an attachéship to an embassy; the rich mill-owner aspires to gain in social position, to be called Sir John This or Sir Thomas That; the great territorial magnate desires a peerage, or a step in the peerage—the Lord Lieutenancy of his county, a ribbon,

or a garter; and if the expectation of any of these worthies is disappointed, marvellous is the change that sometimes comes over his political convictions, and those of his dependents, at the next general election."

It is very difficult to persuade the bribable class of electors of the fallacy of these arguments. In their eyes, intimidation is a graver offence than bribery; for, say they, the magnitude of an offence is in proportion to the evil that it does to society, and the pain that it inflicts upon individuals. The evil to society from an elector voting against his convictions is the same, whether he does so for the sake of gaining a *5*l.** note or from the fear of losing one—whether he is seduced by a bribe or intimidated by a threat; but to the individual elector the difference between seduction and intimidation is very great—all the difference between pleasure and pain. An elector seduced by a bribe feels that he is a free man, for he does what he likes; an elector who is intimidated by a threat, feels that he is a slave, for he acts under compulsion. Therefore, I repeat, in the eyes of certain classes, intimidation is a far graver offence than bribery. They ask, "Why should one class be permitted to reap the fruits of intimidation, and another class be forbidden to enjoy the sweets of bribery? When you attempt to put a stop to the one, you ought simultaneously to put an end to the other." For these reasons I am convinced that you can never produce a general feeling hostile to bribery until you have put an end to intimidation by the upper classes.

I will not trespass upon the House by attempting to show that it would be absurd and ridiculous to try to put down intimidation by means of penal enactments. You cannot so define intimidation as to constitute it a punishable offence. Intimidation of the most potent kind may be conveyed by a nod, a wink, a gesture, a seemingly casual expression of opinion, nay, even by an invitation to a breakfast or a dinner. I have heard of the intimidation of a numerous tenantry by an invitation to a breakfast. The breakfast was on the polling-day. Those who partook of it, as a matter of course, accompanied their landlord to the poll, and what tenant dared to refuse the invitation?

It is said that intimidation has decreased of late years. I find, however, much difference of opinion on this subject; one opinion being held by the intimidating, the

opposite by the intimidated classes. If you talk to one of the intimidating classes, to a landlord or to a mill-owner, he will tell you that he never intimidates his tenants, his workmen, or his artisans, and that the ballot is not wanted. But if you talk to one of the intimidated classes, you will hear a different story. The shopkeeper, the tenant farmer, the workman, and the artisan will tell you, "We know too well the opinions of our customers, of our landlords, of our employers, to dare to vote against them. Though they have not positively threatened to punish us if we were to do so, yet we are afraid to vote according to our consciences, in opposition to their wishes, without the protection of the ballot." From these conflicting opinions I arrive at the conclusion that the grosser and more outrageous forms of intimidation have become less common, and in fact they are condemned by public opinion; but that the milder, and more decent, and not less effective forms are practised to a great extent; and I doubt very much whether the real influence of intimidation on the vote of electors has much diminished. It is notorious, that if in an agricultural district you know the opinions of the chief landowners—if in a manufacturing district you know the opinions of the chief mill-owners, you can tell very nearly what candidate will have the majority of votes in the district. I was much struck at the last general election by an instance of this description with regard to the county which I inhabit—I mean East Cornwall. There were three candidates for that division, two Protectionists and one Free-trader. I was told just before the election that the free-trade candidate had a bad chance, that all the farmers were Protectionists, and that my tenants would vote against me to a man. I replied that I had no doubt they were Protectionists, but how did their landlords intend to vote? and I asked the opinion of So and So, mentioning half a dozen of the chief landed proprietors of the division. I was told they were with us. Then, said I, "Never mind the opinions of the farmers; we shall have a large majority," and so we had. The free trader was far ahead on the poll. If we had known our strength, we could easily have returned two Free-traders. But what amused me most was to find that my tenantry, with one or two exceptions, plumped for the free-trade candidate. Now I did not use any intimidation. My tenants were only aware of the

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fact, which every one knew, that I had always been a determined free-trader, that twenty years ago I had represented that division as a free-trader, and was a most zealous supporter of the free-trade candidate. The result of that election showed, that without the ballot the hon. Gentleman opposite (Mr. Kendall) would not have the slightest chance of being returned again for East Cornwall, if he be opposed.

It appears to me that there are only three conceivable modes of preventing intimidation. Take, for instance, the case of a customer and a shopkeeper. To prevent a customer from intimidating a shopkeeper, you must either conceal from the shopkeeper the opinions of his customer, or you must forbid the customer from ceasing to deal with the shopkeeper in consequence of his voting against the opinions of the customer; or you must conceal from the customer the vote of the shopkeeper. You cannot conceal from the shopkeeper the opinions of his customer, unless you prohibit the customer from ever expressing his opinions—an inconceivable prohibition. Secondly, you could not prevent a customer from ceasing to deal with a shopkeeper in consequence of his voting against his customer's opinions, unless you were to pass an enactment forbidding any customer from ever ceasing to deal with any shopkeeper who had ever voted against his customer's opinion—an impossible enactment. Therefore, there remains only the alternative of concealing from the customer the vote of the shopkeeper, and that alternative is the ballot. Similarly in the cases of a mill-owner and his workmen, and of a landlord and his tenant. If you wish to prevent a landlord from intimidating his tenant, you must either conceal from the tenant the opinions of his landlord, which would be impossible; or you must prevent a landlord from ejecting any tenant who had ever voted against his landlord, in which case the tenant who had voted against his landlord would have a perpetual holding; or you must conceal the vote of the tenant from the landlord by means of the ballot. Therefore it appears to me that any serious attempt to put down intimidation by means of penal enactments would give birth to laws of such intolerable vexation and severity, that all the intimidating classes would cry aloud for the protection of the ballot. But even if by means of penal enactments an end could be put to intimidation by the upper classes,

such enactments would not put down intimidation by the lower classes. To protect the elector from the violence and the intimidation of the mob you must conceal his vote from the mob.

It is said there is one kind of intimidation which the ballot could not put an end to; that, for instance, a landlord who suspected that with secret suffrage his tenants would vote against his wishes would prevent them from going to the poll; that this kind of intimidation would be much practised in Ireland, where, in consequence of the wide difference between parties, it is more easy to foresee how electors would vote than in this country; that, for instance, Protestant landlords would sometimes compel all their Roman Catholic tenants to abstain from voting. I do not deny that acts of gross and outrageous intimidation of this description might be practised under the ballot; but, in consequence of their very grossness, they would be rare. They would only be practised by the most unscrupulous intimidators; and, as I have already observed, public opinion condemns the grosser forms of intimidation. I should likewise observe that a landlord who with secret suffrage would prevent his tenants from voting would, with open voting, compel them to vote against their convictions. Now, it is a greater evil to the community, and a greater pain to an elector, to be compelled to vote against his convictions, than to be compelled to abstain from voting altogether. Therefore, even if the ballot were not to put a stop to this kind of intimidation, it would substitute a lesser evil for a greater one, and that would be a gain to the community. Moreover, for a landlord to forbid his tenantry to vote, would, as I have already said, be an act of gross intimidation of so outrageous a character, that if any act of intimidation could or ought to be punished, that act could and ought. I should, however, doubt the expediency of making it a punishable offence. I should leave it to be put down by the force of public opinion, which, under the ballot, would become very strong against acts of gross and flagrant intimidation. For the ballot, by putting an end to all the ordinary and mild modes of intimidation, would much diminish the number of persons who could or would intimidate. Then only a few persons would possess the means of intimidating and be unscrupulous enough to use them—and only those few would approve of the em-

ployment of such means in the outrageous manner in question—and the conduct of those who did employ such means would meet with the condemnation of all the rest of the community, both of the intimidated classes and of those who, in consequence of the ballot, had ceased to belong to the intimidating classes, and who would therefore be loudest in the condemnation of the exercise of a power of which they had been deprived.

I am convinced, therefore, that the ballot, by diminishing the number of persons who could bribe or intimidate, would tend to create a strong public opinion against bribery and intimidation. For the position of Hudibras, that men

“Compound for sins they are inclined to

By damning those they have no mind to,”

is equally true of sins which men have no power to commit. This is the answer which I should give to the assertion of my noble Friend the Secretary of State for Home Affairs, that with the ballot there would be much promise-breaking. I admit that promises extorted from an elector to vote against his convictions would, with the ballot, be broken; but eminent moralists justly assert that it is better to break a wicked promise than to keep it. Moreover, to extort from an elector a promise to vote against his convictions, and which he will probably break, is a sin. Now men rarely commit sins from which they expect no profit; therefore, with the ballot few men would commit the useless sin of extorting promises from electors; and the conduct of the few who did commit that sin would be severely condemned by the rest of the community, who, with the ballot, would have neither the power nor the inclination to imitate such conduct. Therefore, for the reasons I have already stated, I feel convinced that the public opinion which would spring up under the ballot would soon put down such attempts at extorting promises as would lead to much promise-breaking.

I have now stated my reasons for thinking that the ballot would put an end to every kind of bribery except gross, outrageous, and wholesale bribery, which might easily be detected and punished; and also that it would put an end to every kind of intimidation except gross, outrageous, and wholesale intimidation, which public opinion would severely condemn.

Before I sit down I wish briefly to refer to one or two of the arguments which have

been used by my noble Friend (Lord Palmerston) against the ballot. [*Cheers and cries of "Divide!"*]

Hon. Members opposite ought not to be impatient. They should remember that on the present occasion I have been called upon to speak, and that I represent some dozen Members of the Government. I will not, however, detain them much longer, but reply very briefly to my noble Friend's arguments.

My noble Friend said the elective franchise is a trust (this is a very common objection to the ballot), that the elective franchise is a trust confided to an elector for the public benefit—the trust being to choose a representative. He said that the elector is responsible for the exercise of his trust, and therefore that he ought to vote openly, in order that the public may judge of and pronounce a judgment upon his choice of a representative. Why so? To affirm that an elector ought to vote openly, in order that the public may pronounce a judgment upon his choice of a representative means, if it means anything, that the elector ought to be influenced in his choice of a representative by the opinion of the public. But for what reason ought an elector to be so influenced? The only reason that can be assigned must be that the public are better judges of who ought to be chosen than the elector is. But if the public are better judges of, they are fitter to choose, a representative; and if they are fit to choose, they ought to choose, and therefore they ought to have votes. But who are the public whom you consider fit to choose a representative? The whole community, or a portion of the community? If the whole community are fit to choose a representative, then they ought to have votes, and the suffrage should be universal, for to vote for a candidate is so simple an act that there is no reason why it should be done by a delegate or representative. If, on the other hand, you consider that only a portion of the community are fit to choose a representative, then you affirm that the other portion are unfit to choose. It is evident that only those who are fit to choose ought to have the franchise, and they ought to be able to choose freely; therefore, they ought to be protected in their choice of a representative from the influence of those who are unfit to choose, and the only means by which they can be so protected is the ballot. Therefore the arguments upon

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which the doctrine of the responsibility of the elector is placed, may lead to an extension of the suffrage or to universal suffrage, but they are not inconsistent with secret suffrage; on the contrary, they show the use of the ballot in protecting those who are fit to choose a representative from being influenced in their choice by those who are unfit to choose one.

My noble Friend has used another argument, which has been so often answered, that I hardly dare trespass on the patience of the House by mentioning it. He said that if the electors are to have the ballot, we ought to have the ballot in this House. Really I cannot discover any analogy whatever between the two cases. When an elector chooses a representative, what ought he to do? He ought to select as his representative the man, whom on account of his political opinions, he considers fittest to sit in this House. The elector has therefore a right to know whether his representative does or does not act up to his political professions. And if, after an hon. Member has taken his seat in this House, he changes his opinions on any important matter upon which he has declared his views to the electors, it is his duty to resign his seat, and to give the electors the opportunity of choosing another representative. The elector has therefore a right to know whether his representative fulfils his promise, and this the elector could not know if we voted in secret. On the other hand, the elector ought to promise nobody—but to choose without fear of punishment or hope of reward the representative whom he considers fittest; and this, in many cases, he could only do with the ballot.

The last objection to the ballot which I will notice is, that it would be a democratic measure. Now the term "democracy" has two significations—one good, and the other bad. In the good sense of the word, democracy simply means popular government; and in this sense of the word I admit that the ballot would be a most democratic measure, for I believe that it would conduce more to good popular government than any other institutional change—than any Reform Bill that can be devised. On the other hand, democracy in its bad sense means the government of an ignorant and violent mob. But in this sense I maintain that the ballot would be a most anti-democratic measure, because it would protect the elector in the exercise

of his franchise from every kind of intimidation, and especially from the intimidation of an ignorant and violent mob. In fact, if the term conservative be used as the opposite of democratic in its bad sense, the ballot would be a most conservative measure, for it would enable an elector to preserve his principles whilst giving his vote.

In conclusion, I must say that my firm conviction, founded upon the fact that your penal enactments against bribery, though repeatedly amended, have always failed, is that you may patch and mend those enactments to all eternity, you will never arrest the progress of corruption or put an end to intimidation till you try the experiment of the ballot; and if, contrary to my expectations and convictions, that experiment should fail, you will not be worse off than at present, but you would have the satisfaction of knowing that you have done your best to cure great and crying evils, which, be assured, cast deep discredit on this House, and tend to sap the foundations of your representative system.

Mr. I. BUTT said, that placed between the arguments of two Cabinet Ministers, he had no hesitation in voting with the noble Lord the Member for Tiverton (Viscount Palmerston) on whose side he certainly thought the weight of the argument inclined. When the Members of the Cabinet agreed, their unanimity was wonderful; when they disagreed, their discordance was marvellous. The right hon. Baronet the Chief Commissioner of Works said he represented a dozen Members of the Government. He (Mr. I. Butt) had fallen into the mistake of supposing that he represented only himself. And he must say, that if his arguments were a fair specimen of the logic of the other twelve, their accession was not likely to aid the cause of the ballot. The right hon. Baronet the Member for Southwark (Sir W. Molesworth) began by telling the House that the success of penal measures against bribery and corruption was prevented, either by their severity, or the difficulty of detection; and, having shown to the House that those measures were at least severe enough, he went on to advocate a measure which he (Mr. I. Butt) believed would make detection impossible. The right hon. Baronet, retorting on his noble Colleague, maintained that public opinion ought to have no share in influencing the elector in giving his vote; but on what other principle was the whole administration of pub-

lic affairs conducted in this country but on that of the influence of public opinion? He could perfectly understand and agree in the argument of the noble Lord when he asked, why should the elector alone be exempted from the control of public opinion which was applied to every one else? The right hon. Baronet had completely failed to answer that argument. He did not mean to follow the right hon. Baronet through his lecture on bribery and corruption, which, had it proceeded from any less distinguished purist, would have tempted him to apply the line—

"He best can paint them who has felt them most."

For, in truth, the question was not to be decided by this anatomical illustration of bribery, nor by an inquiry whether voters could be influenced by priests and landlords; but his vote would be decided by the consideration whether the ballot was a mode of voting most calculated to elevate the character of the constituent body of this country, and most conducive to the independence and high-mindedness of the electors. No man was more anxious to put an end to bribery and intimidation than he was, but he did not believe that any advocate of the ballot had shown that it would have that effect, nor did he think it was possible for them to establish such an argument. But his great objection to the ballot was founded upon the fact that it was an un-English mode of voting. The object which they professed to have in view, that of enabling electors to vote in secrecy, could only be attained at the risk of leading them to forget their pledges, to conceal and falsify their votes, and of inducing falsehood, treachery, and cowardice. The example of America had been quoted by an hon. Member, but he (Mr. I. Butt) would ask, had the ballot banished bribery, intimidation, and violence from the elections there? The example, too, of France had been quoted, and they were told that they were indebted to the ballot for Louis Napoleon. No man was more ready than he was to express his admiration of the brave and loyal conduct of that Monarch, but he believed, that if the ballot were introduced into this country, the time was not very far distant when we should have to invoke the assistance of an unconstitutional military Governor to preserve the institutions of the country. The real secret of the demand for the ballot was to be found in the democratic ambition to be free from all constraint, and, believing that in-

stitution exercised an influence on citizens, he should vote against the ballot even if he had no other reason, because it taught a man that he was coming to the poll to exercise an act of absolute power for which he was amenable to no one. He believed this mode of voting would not have the effect of suppressing bribery and corruption, and, even if it were likely to have such an effect, it would only be at the expense of the deterioration of the national character of the people.

Mr. PHINN said, he wished to make a few observations, as the representative of a constituency who felt deeply on this subject, and had made more sacrifices for their principles than almost any other constituency in the kingdom. He was anxious to express his deep satisfaction at the speech of the right hon. Baronet the Member for Southwark, who showed that those hon. Members who agreed with him in opinion had a fearless expounder of their sentiments at the Council Board. The hon. and learned Gentleman who spoke last had expressed a belief that secret voting would vitiate the character of Englishmen, and make them false, treacherous, and cowardly; but, if that were so, were not all the Members of that House who belonged to clubs—were not the East India Directors—false, treacherous, and cowards? He was deeply disappointed and surprised at the speech of the noble Lord (Viscount Palmerston), identifying himself, as he did by it, with all the arguments of the other side of the House. The noble Lord had spoken as if corruption did not prevail, and as if no remedy were necessary; but he told the noble Lord that his right hon. Colleague's speech marked an era in the question, and that it would eventually be carried by the united voice of the people smarting under the wrongs of intimidation. It was not the real aristocracy who intimidated, but a mushroom aristocracy, half-pay captains, men of 500*l.* or 600*l.* a year, who intimidated the class immediately beneath them. He did not believe it was a democratic question, or that secrecy was valuable. He should prefer to see every man exercise the franchise openly, fearlessly, and manfully; but it was necessary to find a remedy for corruption, and to throw protection around the voter. He contended that the franchise was a trust, just as wealth and intellect were trusts, for the exercise of which the possessors were accountable to no one but their Maker, and should, therefore, support the introduc-

*Mr. I. Butt*

tion of a measure which would protect men in the exercise of that trust.

Mr. KENDALL said, the right hon. Baronet the Member for Southwark must have presumed on his modesty—which he knew to be very great—preventing him from rising to address the House, or he would not have ventured to refer, as he had done, to his election, because there was perhaps no greater proof than his own case that the ballot would not at all answer in England. Although he was a man of long standing, perhaps of old family in Cornwall, he was a man of small means, and he had the strongest possible influences working against him among the yeomanry and tenantry, none of them being stronger than that of the right hon. Baronet, as he found to his cost a few days before the election. He was not anxious to represent his county, and had refused to canvass or take any steps in order to do so, and the cry of the “big loaf” was a most enormous cry against him, because no cry in the world was like that of a man's stomach. He would not join in that cry; he stood as an out-and-out Protectionist, and, notwithstanding the most powerful influence, was triumphantly returned. As the right hon. Baronet (Sir W. Molesworth) said, when a landlord used his influence, it was very powerful indeed. When the right hon. Baronet came down he won from him certain votes. A man said to him, “I'm very sorry, your honour, but I went to the first breakfast, and it was a most wonderful breakfast, and I thought I'd go the second day, and the second was as good as the first, so I gave your honour one vote instead of a plumper.” He was asked to relax his Protectionist principles, but he would not yield a single point. He had fought it to the last; but, notwithstanding all these influences, there he was in that House of Commons, returned principally by the yeomanry of Cornwall, against those influences, and he did not think it possible to adduce a stronger argument to prove that the ballot could be of no possible use. It had struck him while the right hon. Baronet was speaking, that he should be obliged to rise and present himself as an example of the perfect uselessness of the ballot to men of upright and honourable feeling; and he could assure the right hon. Baronet that if he were not to be returned to the House except by the ballot, he hoped never to be in the House at all.

Mr. HENRY BERKELEY: Sir, I might

be expected to say a few words in reply to my noble Friend (Lord Palmerston), but I really think that I have no cause for doing so. The House will hardly expect me to answer, nor can I expect their attention while I reply to the stale argument of the unmanliness of secret voting, repeated by the opponents of the ballot, *usque ad nauseam*, and answered an hundred times. Sir, I need say the less, since the question has become a kind of Cabinet question, and one Cabinet Minister has completely answered the other. The hon. and learned Member for Enniskillen (Mr. Whiteside) has referred to certain disturbances which were said to have taken place at New York during an election. I cannot consider that an argument against the ballot. I really thought that I had gone so thoroughly into the condition of the American electoral system that I had entirely forestalled the learned Gentleman's argument, but it is amusing to see the pertinacity with which hon. Members persist in raising from the dead the ghosts of exploded arguments. The hon. and learned Gentleman also disparaged the institution of the ballot in America, because slavery is an American institution. I really do not feel the force of that argument; but I would remind him that in America the ballot is out of favour with the slave owners, and by them sought to be abolished, and open voting substituted, and why? Mark the answer, because the friends of the abolition of slavery find their security against violence in the secrecy of the ballot-box. As there are really no other arguments to refute, I will not detain the House by any further observations.

MR. MAGUIRE said, this was a question which was felt intensely by a large portion of the electoral body in Ireland. He could assert that there was not a Liberal constituency in Ireland that had not pledged itself to the ballot. He knew that if a landlord said to his tenantry he desired they should vote according to his views, they must do so, even though it was against their own views and principles. One hon. Member asked what was to prevent the influence of the priest. He (Mr. Maguire) would tell him—the ballot. But if a clergyman—who from being a clergyman, did not surely thereby cease to be a freeman—if he saw his flock dragged to the hustings, to act against their own convictions, was it at all astonishing that the clergyman should be dragged from the

sanctuary to rescue his flock. A gentleman, who had been a Member of that House, told him that when he was in trade in Oxford Street, it was amazing the audacity of intimidation used by ladies towards him at election times; and an Englishman who was driving a large trade in Ireland, told him that he wished he had no vote at all, so greatly was he annoyed by similar influences. If they could prove that all the electors of Ireland and of this country enjoyed the free power of recording their votes according to their consciences, then he should be ready to oppose the ballot; but as he considered there was no freedom of election under the present state of things, he should certainly support the Motion before the House.

Question put.

The House divided:—Ayes 157; Noes 194: Majority 37.

#### List of the AYES.

Adair, H. E.	FitzGerald, Sir J.
Aglionby, H. A.	Fitzgerald, J. D.
Alcock, T.	Forster, C.
Anderson, Sir J.	Fox, R. M.
Atherton, W.	Fox, W. J.
Barnes, T.	Freestun, Col.
Bass, M. T.	Gardner, R.
Beamish, F. B.	Gibson, rt. hon. T. M.
Bell, J.	Goderich, Visct.
Berkeley, Adm.	Goodman, Sir G.
Berkeley, hon. C. F.	Gower, hon. F. L.
Bethell, Sir R.	Greene, J.
Biggs, W.	Grenfell, C. W.
Blackett, J. F. B.	Greville, Col. F.
Bland, L. H.	Hadfield, G.
Bouverie, hon. E. P.	Hall, Sir B.
Bowyer, G.	Hankey, T.
Brady, J.	Headlam, T. E.
Bright, J.	Henchy, D. O.
Brocklehurst, J.	Heywood, J.
Brockman, E. D.	Heyworth, L.
Brotherton, J.	Hindley, C.
Brown, H.	Horsman, E.
Butler, C. S.	Hutchins, E. J.
Byng, hon. G. H. C.	Hutt, W.
Challis, Mr. Ald.	Jackson, W.
Chambers, M.	Keating, H. S.
Cheetham, J.	Kennedy, T.
Clay, Sir W.	Keogh, W.
Cobbett, J. M.	Kershaw, J.
Cobden, R.	King, hon. P. J. L.
Cogan, W. H. F.	Kinnaird, hon. A. F.
Collier, R. P.	Kirk, W.
Corbally, M. E.	Langston, J. H.
Craufurd, E. H. J.	Langton, H. G.
Crossley, F.	Laslett, W.
Currie, R.	Layard, A. H.
Dashwood, Sir G. H.	Lee, W.
Davie, Sir H. R. F.	Lindsay, W. S.
Duke, Sir J.	Locke, J.
Duncan, G.	Loveden, P.
Duncombe, T.	Lucas, F.
Esmoude, J.	M'Cann, J.
Ewart, W.	MacGregor, John
Ferguson, J.	M'Taggart, Sir J.

Maguire, J. F.  
Mangles, R. D.  
Marshall, W.  
Martin, J.  
Massey, W. N.  
Miall, E.  
Milligan, R.  
Mills, T.  
Milner, W. M. E.  
Mitchell, T. A.  
Moffatt, G.  
Molesworth, rt. hon. Sir W.  
Morris, D.  
Muntz, G. F.  
Murrough, J. P.  
O'Brien, Sir T.  
O'Brien, C.  
O'Connell, D.  
O'Connell, J.  
O'Flaherty, A.  
Oliveira, B.  
Otway, A. J.  
Paget, Lord A.  
Paget, Lord G.  
Pechell, Sir G. B.  
Peel, Sir R.  
Pellatt, A.  
Phillimore, J. G.  
Phinn, T.  
Pigott, F.  
Pilkington, J.  
Pollard-Urquhart, W.  
Price, W. P.  
Ricardo, J. L.  
Ricardo, O.

Rice, E. R.  
Robartes, T. J. A.  
Sadleir, Jas.  
Scholefield, W.  
Scobell, Capt.  
Scrope, G. P.  
Scully, F.  
Scully, V.  
Seymour, W. D.  
Shafto, R. D.  
Shee, W.  
Shelley, Sir J. V.  
Sheridan, R. B.  
Smith, J. A.  
Smith, J. B.  
Strickland, Sir G.  
Strutt, rt. hon. E.  
Swift, R.  
Talbot, C. R. M.  
Tancred, H. W.  
Thicknesse, R. A.  
Thornely, T.  
Uxbridge, Earl of  
Villiers, rt. hon. C. P.  
Vivian, J. H.  
Vivian, H. H.  
Walmsley, Sir J.  
Warner, E.  
Wickham, H. W.  
Wilkinson, W. A.  
Willcox, B. M.  
Williams, W.  
**TELLERS.**  
Berkeley, H.  
Stuart, Lord D.

#### List of the NOES.

A'Court, C. H. W.  
Alexander, J.  
Annesley, Earl of  
Archdall, Capt. M.  
Bailey, Sir J.  
Bailey, C.  
Baines, rt. hon. M. T.  
Ball, E.  
Barrow, W. H.  
Bateson, T.  
Beckett, W.  
Beetive, Earl of  
Bennot, P.  
Bentinck, Lord H.  
Bentinck, G. W. P.  
Berkeley, Sir G.  
Bernard, Visct.  
Boldero, Col.  
Booker, T. W.  
Bramston, T. W.  
Brand, hon. H.  
Brooke, Sir A. B.  
Buck, L. W.  
Burroughes, H. N.  
Butt, G. M.  
Butt, I.  
Cabbell, B. B.  
Cairns, H. M.  
Carnac, Sir J. R.  
Cecil, Lord R.  
Child, S.  
Christopher, rt. hon. R. A.  
Clive, R.  
Cobbold, J. C.  
Coles, H. B.  
Colville, C. R.

Davison, R.  
Deedes, W.  
Denison, E.  
Dering, Sir E.  
Disraeli, rt. hon. B.  
Dod, J. W.  
Drumlanrig, Visct.  
Duff, G. S.  
Duff, J.  
Dunlop, A. M.  
Dunne, Col.  
Du Pre, C. G.  
East, Sir J. B.  
Egerton, Sir P.  
Egerton, W. T.  
Egerton, E. C.  
Elcho, Lord  
Elliot, hon. J. E.  
Elmley, Visct.  
Evelyn, W. J.  
Ferguson, Sir R.  
Filmer, Sir E.  
Floyer, J.  
Forbes, W.  
French, F.  
Frewen, C. H.  
Galway, Visct.  
Gaskell, J. M.  
George, J.  
Gilpin, Col.  
Gladstone, rt. hon. W.  
Gladstone, Capt.  
Goddard, A. L.  
Gooch, Sir E. S.  
Goulburn, rt. hon. H.  
Graham, rt. hon. Sir J.

Granby, Marq. of  
Greenall, G.  
Greene, T.  
Grogan, E.  
Gwyn, H.  
Hale, R. B.  
Harcourt, G. G.  
Harcourt, Col.  
Hawkins, W. W.  
Heathcote, Sir G. J.  
Heathcote, G. H.  
Heathcote, Sir W.  
Heneage, G. H. W.  
Henley, rt. hon. J. W.  
Herbert, H. A.  
Herbert, rt. hon. S.  
Herbert, Sir T.  
Hervey, Lord A.  
Hildyard, R. C.  
Hogg, Sir J. W.  
Horsfall, T. B.  
Hotham, Lord  
Hughes, W. B.  
Hume, W. F.  
Jones, Capt.  
Jones, D.  
Kendall, N.  
King, J. K.  
Knatchbull, W. F.  
Knightley, R.  
Knox, Col.  
Knox, hon. W. S.  
Lacon, Sir E.  
Legh, G. C.  
Lennox, Lord A. F.  
Liddell, H. G.  
Liddell, hon. H. T.  
Lindsay, hon. Col.  
Lisburne, Earl of  
Lockhart, A. E.  
Lockhart, W.  
Macartney, G.  
Mackie, J.  
Mackinnon, W. A.  
MacGregor, Jas.  
Malins, R.  
Mandeville, Visct.  
Masterman, J.  
Miles, W.  
Michell, W.  
Montgomery, Sir G.  
Moody, C. A.  
Mostyn, hn. T. E. M. L.  
Mowbray, J. R.  
Mulgrave, Earl of  
Mullings, J. R.  
Mundy, W.  
Naas, Lord  
Napier, rt. hon. J.  
Neeld, John  
Newark, Visct.  
Newdegate, C. N.  
North, Col.

North, F.  
Oakes, J. H. P.  
Ossulston, Lord  
Packe, C. W.  
Palk, L.  
Palmerston, Visct.  
Parker, R. T.  
Peel, F.  
Peel, Col.  
Pennant, hon. Col.  
Percy, hon. J. W.  
Philipps, J. H.  
Phillimore, R. J.  
Pritchard, J.  
Pugh, D.  
Repton, G. W. J.  
Rolt, P.  
Rumbold, C. E.  
Rushout, Col.  
Sandars, G.  
Sawle, C. B. G.  
Seymour, H. K.  
Seymour, Lord  
Shelburne, Earl of  
Smijth, Sir W.  
Smith, W. M.  
Smyth, J. G.  
Spooner, R.  
Stafford, A.  
Starkie, Le G. N.  
Sutton, J. H. M.  
Taylor, Col.  
Thornhill, W. P.  
Tollemache, J.  
Trollope, rt. hon. Sir J.  
Tudway, R. C.  
Tyrell, Sir J. T.  
Vance, J.  
Vane, Lord A.  
Vernon, L. V.  
Vyvyan, Sir R. R.  
Walcott, Adm.  
Walpole, rt. hon. S. H.  
Walsh, Sir J. B.  
Welby, Sir G. E.  
Whitbread, S.  
Whiteside, J.  
Whitmore, H.  
Wilson, J.  
Wood, rt. hon. Sir C.  
Woodd, B. T.  
Wortley, rt. hon. J. S.  
Wrightson, W. B.  
Wyndham, Gen.  
Wyndham, H.  
Wynn, Major H. W. W.  
Wynne, W. W. E.  
Yorke, hon. E. T.  
Young, rt. hon. Sir J.

**TELLERS.**  
Hayter, rt. hon. W. G.  
Jolliffe, Sir W. G. H.

#### CHURCH TEMPORALITIES, &c. (IRELAND).

MR. SERJEANT SHEE: \* Sir, if I needed any apology for asking leave to present a measure relating to the Temporalities of the Church in Ireland, I should find it in the example of many distinguished Members of this House, in its own

deliberate Resolutions, and in the recorded opinions of some of the most eminent statesmen of our times. The hon. Gentleman the Member for Montrose, my hon. and learned Friend the Member for Sheffield, the hon. Gentleman the Secretary for the Admiralty, the noble Lord the President of the Council, have all, in the course of their Parliamentary careers, exerted themselves for the correction of an abuse, which is acknowledged on all hands to be a perennial cause of political embarrassment in England—the chief difficulty of British Government in Ireland—a scandal to the religion of the State, and to the Constitution of the United Kingdom. Adequately to describe and denounce this abuse, the resources of our language have been strained by its ablest masters.

"As long," said Lord Brougham, "as the foulest practical abuse that ever existed in any civilised country continues untouched, or touched only with a faltering hand—the Irish Church as lavishly endowed for a sixteenth part of the Irish people as if more than double its whole number could partake of its ministrations—there assuredly never can be peace for that ill-fated land."

"My own opinion," said Mr. Macaulay, "is that the Church of Ireland is a bad institution. It is my deliberate opinion, that of all the institutions now existing in the civilised world, the Established Church of Ireland is the most utterly absurd and indefensible. There is but one country in the world that presents to you the spectacle of a population of 8,000,000 of people with a Church established and richly endowed for only 800,000 of that population."

"I regard," said Lord Grey, "the Irish Church, in the actual condition of that country, and upon the footing on which it is placed, to be opposed alike to justice, to policy, and to religious principle. I regard that Church as the great obstacle to the spread of Protestantism in Ireland."

"I believe," said Lord Campbell, "the Protestant Church in Ireland to be one of the most mischievous institutions in existence. I believe it is so considered now; I believe it will be so considered by posterity; and it is only because your Lordships are familiar with it, that you are not shocked by the picture. Can there be any wonder that the Roman Catholics are discontented?"

"The Irish Church," said Sir George Grey, "was unjustifiable in its establishment, and is indefensible in its continuance."

"The appropriation," said Lord John Russell, "of the whole of the revenues which the State allows and recognises as the revenues of the Established Church, to the clergy of a small portion of the people, is in itself an anomaly and a grievance."

What reasonable man, I ask the House, can complain that a question, the urgency and importance of which have been thus attested, should be calmly and dispassionately submitted by a Member for an Irish constituency to the Parliament of the empire? With an earnest conviction that I

am right in so doing, and satisfied that the declarations of these eminent persons are but the expression of the intelligent judgment of the English people, I approach this subject, not indeed free from anxiety, but with less of diffidence than I could do without such encouragement. I am, indeed, in some degree comforted by the consciousness that it is not open to me to recommend the extreme remedy to which the language of Lord Brougham, Lord Grey, Lord Campbell, and Mr. Macaulay would appear to point. Fortunately, as I hope for my object, you have placed me under recognisances to propose nothing which can alarm the consciences of sincere friends of the Protestant establishment—nothing which can tend, in my opinion, to its subversion, or to the weakening of the Protestant religion. In that restraint I cheerfully acquiesce. It is not inconsistent with my own view of what is wise and expedient in dealing with a question of so much delicacy as the religion of the State—and I proceed, therefore, at once to consider, on what grounds, and for what ends, according to the principles of the Church itself, a Church Establishment is justifiable—and how far those ends have been attained hitherto, and are now attainable, in Ireland, by the establishment of the Protestant Church:—

"A religious establishment," says Dr. Paley, "is no part of Christianity; it is only the means of inculcating it. The authority, therefore, of a Church Establishment is founded on its utility; and whenever, upon this principle, we deliberate concerning the form, propriety, or comparative excellency of different establishments, the single view under which we ought to consider any of them is that of a scheme of instruction;—the single end we ought to propose by them is the preservation and communication of religious knowledge."

"I request," says Bishop Warburton, "my reader to have this always in mind, that the true end for which religion is established is not to provide for the true faith, but for Civil Utility, as the key to open to him the whole mystery of this controversy, and the clue to lead him safe through all the intricacies and perplexities in which it has been involved."

In the opinion, therefore, of these eminent divines, the civil utility of promoting a knowledge of those Christian truths, and the observance of those Christian precepts on which all Christians are agreed, is the only legitimate foundation and justification of a Church Establishment. Religious instruction in youth, religious observance in maturer years, are the best securities which Governments can have for obedience to human laws—for peace, order, industry,

the cheerful subordination of inferior to superior rank, and the general well-being of nations. The man who fears God will honour the king; the man who strives so to order his life as to be justified in the sight of God, will be just in all his dealings with his neighbours; the man who dreads to offend God by sin of any kind, will be proof against all temptation to commit the more grievous sins which are by human laws designated as crimes. It is obvious that to effect this end, the religious establishment of a country must be so ordered as to embrace, if not all the people, at least a considerable portion of all ranks and classes of the people, and of that class in particular which stands most in need of the safeguards which religious teaching affords—the poor. A Church Establishment from which the wealthy and the well-to-do derived no benefit, would fail in an important element of its utility; but a Church Establishment, from which the body of the people was excluded, must be a mockery and a fraud. The law by which such an establishment was set up would be a law against the people who were compelled to submit to it; and such laws, beyond all question, at the time of their enactment (whatever may be the case now), were the laws which established the Protestant Church of England in Ireland. I am not about to trouble the House with any minute references to the Statute-books; but it is necessary, for the purpose of ascertaining to what extent the civil utility, on which alone the authority for a Church Establishment depends, has hitherto been attained in Ireland, and the means by which, for the future, it may be more effectually promoted, that I should briefly call attention to two classes of Statutes. The first, as respects the distinctive character of the Protestant Episcopal Church in its relation to other churches, may be called Acts of Constitution. They are the Acts of Elizabeth and Charles II. for the uniformity of divine worship in Ireland, and the fifth article of the Act of Union. In the second class are Acts of Regulation—the Church Temporalities Act of 1833, the Tithe Composition and Rent Charge Acts, the Acts relating to the building of churches and glebe houses. Abstaining from all points of doctrine, I beg the attention of the House to the nature and operation of these enactments, not for the purpose of mere fault finding, but to ascertain by what means, consistent with the maintenance in honour, dignity, and effi-

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ciency of the United Church of England and Ireland, in Ireland, we may best promote that civil utility, on which, according to Dr. Paley and Bishop Warburton, all religious establishments must rest for their authority and justification. The Act of Elizabeth, for the uniformity of divine worship in Ireland, was a mere transcript from the English Statute-book. With the exception of some few converts to the Reformation during the short reign of Edward VI., the Irish nation, acknowledging the spiritual jurisdiction of the see of Rome, was at that time Catholic to a man. It held to a man the doctrine of the Seven Sacraments, for the defence of which the King of England had then recently received from the Pope the title of Defender of the Faith; it knew of no morning service but the Holy Sacrifice of the Mass; no evening service but the Vespers and Benediction, the ritual of which, in the Latin language, was at that time used in all the churches of the Christian world; no archbishops and bishops except those for whose appointment and jurisdiction, by an Act of Parliament, then so recent as the 23rd of Henry VIII., “Bulls ensealed with lead palls and briefes from Rome” were declared to be “requisites.” In the hope, no doubt, of preserving the civil utility of a Church Establishment, notwithstanding the abolition of all these things, the Act of Elizabeth, still in its main provisions the law in Ireland, was passed. It recited an Act for the same object, passed in England in the reign of Edward VI., and enacted—

“That all and singular ministers in any cathedral or parish church within the realm of Ireland should be bounden to say the matins, even-song, and administration of each of the sacraments, and all their common and open prayer, as was mentioned in the Book of Common Prayer, and administration of Sacraments and other rites and ceremonies in the Church of England, authorised by the Parliament of England, of the 5th and 6th years of the reign of King Edward VI. under pain in case of their refusal, or of their using any other rite or ceremony, of forfeiture for the first offence, of one year's profit of their benefices and six months' imprisonment; for the second offence, of one year's imprisonment, and deprivation of their benefices at the pleasure of the patron; and for the third offence, of absolute deprivation of their benefices, and imprisonment for life.

“And forasmuch as every common priest or minister had not the knowledge of the English tongue, and that the same might not be in the native Irish language, as well for the difficulty to get it printed, as that few of the whole realm could read the Irish letters, that it should be lawful for the common minister or priest to use and say the said matins, even-song, celebration of the

Lord's supper, and administration of each of the sacraments, and all their common and open prayer, in the Latin tongue."

The immediate effects of this Act, had they not continued to our own times, would be matter rather of historical interest than of profitable inquiry. The clergy abandoned their cures; it was impossible to find educated men to supply their places. The churches fell to ruin, and but for the zeal of the bishops ordained by the authority of the Pope, of whom, as appears from Lalor's case, there was one at the commencement of the reign of James I. in almost every diocese, the people had been left without any observance of divine worship or means of religious instruction. Let us now see, in the hope of discovering a remedy for it, to what extent this evil has continued to our own time. A great distinction must be observed between what Lord Liverpool used to call Protestant Ireland—namely, the ancient ecclesiastical province of Armagh; and Catholic Ireland—the ancient ecclesiastical provinces of Dublin, Cashel, and Tuam. We will first look at it in the gross. In the year 1834, the year in which the Census last distinguished the numbers of the people according to their religious creeds, Ireland had a population of 7,944,000 souls, of whom only 852,064 derived any benefit from the Establishment; 7,100,000 souls of British subjects were excluded by the conditions which the Act of Uniformity imposed, from all the advantages of that civil utility, for which alone religious establishments are justifiable, and to secure which all the material means set apart for the holy purpose of deterring men from crime and relieving human justice from the necessity of its repression, had been made over to the Church of England in Ireland. Still more striking is the terrible failure of the Church in the end and purpose of its establishment when viewed in the detail of dioceses and parochial districts. And first, as to Catholic Ireland; I select three dioceses, with the circumstances of which I am well acquainted by personal observation and by the study of their ecclesiastical statistics—the diocese of Ossory, Ferns, and Leighlin—of Cashel, Emly, Waterford, and Lismore—of Limerick, Ardfert, and Aghadoc. They extend over the counties of Kilkenny, Carlow, Tipperary, Waterford, Wexford, Limerick, and Kerry, and contained before the famine a population of 1,729,680 souls, now diminished by about one-fourth. The diocese

of Ossory, Ferns, and Leighlin contained a population of 610,957 souls, of whom 562,619 were Catholics—only 47,514, of all ages, members of the Established Church. This small minority, composed of the landed proprietors, their families, connections, and dependents, have their spiritual interests attended to by a bishop and 192 beneficed clergymen, who share among them, and some 92 curates, an episcopal and parochial church revenue of 60,000*l.* The bishop occupies a handsome residence at Kilkenny, one of his cathedral cities, in which a great majority of the inhabitants are Catholics. The beneficed clergy reside in glebe houses, erected in modern times at an ascertained cost of 98,000*l.*; they officiate in churches which afford accommodation for 37,000 persons, erected (besides those of them which are ancient) at an ascertained cost of 105,000*l.*, the expense of divine worship in which is defrayed by a public board, free of all cost to those who worship in them. Take next the diocese of Cashel, Emly, Waterford, and Lismore. It contained a population of 566,336 souls, and of whom 546,462 were Catholics; only 18,692, of all ages, members of the Established Church. Again, this small minority is composed of the landed proprietors, their connections and dependents, and has its spiritual interests attended to by a bishop and 131 beneficed clergymen, dividing among them and their curates an episcopal and parochial church revenue of 42,000*l.* The bishop has a handsome residence in one of his cathedral cities, Waterford, a great majority of the inhabitants of which are Catholics. The beneficed clergy reside in glebe houses, the ascertained original cost of which in modern times was 54,220*l.*; they officiate in churches which afford accommodation for 15,000 persons, the ascertained cost of erecting which (in addition to those which are ancient) was 51,000*l.*, and in which all the expenses of divine worship are defrayed by a public board, free of cost to those who attend them. Take again the diocese of Limerick, Ardfert, and Aghadoc. It contained a population of 562,837 souls, of whom 543,483 were Catholics—only 18,678, of all ages, members of the Established Church. This minority, too, is composed of the landed proprietors, their families, connections, and dependents, and of the more wealthy of the commercial classes; and their spiritual interests are attended to by a bishop and 114 beneficed clergymen, dividing among them and their

curates a church revenue of 31,500*l*. The bishop has a handsome house in the great Catholic city of Limerick. The beneficed clergy reside in glebe houses, the ascertained cost of which in modern times was 41,789*l*. They officiate in churches which afford accommodation for 19,000 persons; the ascertained original cost of which, in modern times (in addition to those of them which are ancient), was 53,098*l*., and in which all the expenses of divine worship are defrayed by a public board, free of cost to those who attend them. Let us pause for a moment to collect the startling contrasts which these statistics present. A population of 1,729,680 souls, of whom 94,000 only are members of the Established Church. For the spiritual care of these 94,000, a church in every benefice affording together accommodation, that is sitting room, for 71,000 persons, besides glebe houses and competent incomes for their clergy, secured as a first charge preferably to all incumbrances and family settlements on the lands within their benefices. For the 1,644,000 Catholics and some few Presbyterians (about 700) who scruple obedience to the Act for the Uniformity of Divine Worship—nothing! Nothing for the residence of their clergy! Nothing for the maintenance of the fabrics of their churches! Nothing for the expenses of divine worship in them! I do not propose to prolong the statement of these statistics by going into the detail at any length of particular benefices, but I cannot refrain from adverting briefly, for the purpose of illustration, to the state of things in three benefices of the counties of Kilkenny, Tipperary, and Limerick—Thomastown, Thurles, and Rathkeale. The first is the benefice in which I reside when in Ireland, and with the circumstances of which I am perfectly well acquainted. It contained in 1834 a population of 3,958 souls, of whom only 152, of all ages, were members of the Established Church. It has a church revenue at the disposal of the rector of from 400*l*. to 450*l*. His glebe house was built at the expense of 1,025*l*. His parish church, the erection of which cost 1,168*l*., provides accommodation for 120 persons. Its congregation never exceeds 60, consisting of two country gentlemen, a banker, two or three wealthy millers and land agents, and the officers of police, with their families—a most respectable congregation. Close to that church and within sight of it, is a building in which I have, during

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the last ten years, attended divine service, together with nearly the whole population of the benefice. For them, and their public worship, and for the maintenance of their church, there is no provision. It has an earthen floor; its roof is unsafe; it is unworthy of repair, and no means exist for rebuilding it. Take next Thurles, in the diocese of Cashel, the place where the Synod of the Irish Church was lately held. The population was 12,449, of whom only 294 were members of the Established Church, yet the rector had a revenue of 952*l*., and his glebe house cost 2,846*l*. For the 12,000 persons who did not belong to the Establishment, for their church, their public worship, or the residence of their parish priest—the venerable Archbishop of Cashel—not one shilling of provision. Rathkeale, again, in the diocese of Limerick, had a population of 10,175 souls, of whom only 737 were members of the Established Church, and yet the rector enjoyed a church revenue of 800*l*., lived in a glebe house which cost 2,861*l*., and officiated in a church, the erection of which cost 1,500*l*. Will the House believe it—in the forty-nine churches of the diocese of Ossory, with its population of 150,000, only 1,043 on Good Friday, and 3,097 on Easter Sunday, of the year 1853, attended the morning service of the church. I had them counted for the express purpose of giving this information to the House. In the sixty churches of the great diocese of Cloyne, including a large part of the county of Cork, with a population of 250,000 souls, on the same days the attendance was 1,797 on Good Friday, and 4,429 on Easter Sunday. I think I may conclude that in the counties of Kilkenny, Waterford, Wexford, Tipperary, Limerick, Kerry, and Cork—and they are only fair specimens of all the counties in Leinster, Munster, and Connaught (indeed the contrasts are greater in the province of Tuam, where there were only 44,599 members of the Established Church, out of a population of 1,234,336 souls—the Irish Church Establishment has failed as a scheme of religious instruction in the promotion of that civil utility in which alone a justification of its existence and maintenance can be found. For anything that Government, through its instrumentality, has done to promote the fear of God and the knowledge of God's law by the great body of the Irish subjects of the English Crown, it had been as well for them that their rulers had been heathens. The people have been

left without religious worship or institutions, and society without the protection which they only can afford.

It may be said, however, that the dioceses to which I have referred have been unfairly selected. Not so as respects Catholic Ireland—the three ecclesiastical provinces of Dublin, Cashel, and Tuam. In Protestant Ireland the case is certainly different, and gives rise, in the interest of the Protestant religion, as well as of that civil utility which is the end and object of all religious establishments, to different considerations. Let us see how the case stands in the more Protestant counties of Antrim, Armagh, Derry, Donegal, Down, Fermanagh, Louth, and Tyrone. The primatial diocese of Armagh and Clogher had, in 1834, a population of 899,385 souls, of whom 3,366 were Protestant Dissenters, 119,460 Presbyterians, 569,688 Catholics, 207,371 members of the Established Church. The diocese of Derry and Raphoe had a population of 574,871 souls; of whom 1,762 were Protestant Dissenters, 147,253 Presbyterians, 341,999 Catholics, 83,857 members of the Established Church. The diocese of Down, and Connor, and Dromore, had a population of 738,415 souls, of whom 10,387 were Protestant Dissenters, 361,486 Presbyterians, 230,225 Catholics, 236,317 members of the Established Church. The bishops and beneficed clergy of these dioceses divide among them a church income of 170,000*l.* The bishops have handsome residences. The beneficed clergy reside in glebe houses, the ascertained original cost of which, in modern times, was 247,000*l.* They officiate in churches the ascertained original cost of which in modern times was 295,000*l.*; and in which all the expenses of divine worship are defrayed free of charge to those who worship in them by a public board. The church accommodation provided in these dioceses for its 500,000 members is sufficient, but not, as in other provinces, more than sufficient, for their need. No beneficed clergyman is without a respectable congregation; but on the other hand, even in this Protestant part of Ireland, the Church Establishment, as respects the authority and justification of religious establishments, civil utility, is in its relation to a population of 1,685,626 out of a population of 2,213,171 souls—an utter failure.

The frightful contrasts which these statistics present between the spiritual super-

fluities of the wealthy few and the spiritual destitution of a vast majority of the Queen's subjects—Presbyterian and Catholic—in Ireland, was, of course, well known, though not in its minute details, to English statesmen, and to Members of both Houses of Parliament, during the thirty years which followed the Legislative Union with Ireland. It was not, however, until the Reform Act, and the Catholic Emancipation Act, had brought into public life men more likely to be impatient of a flagrant ecclesiastical enormity of this character, that the attention of the Government of England was directed to it. But in the year 1833, a Commission was appointed by the Crown to make full and correct inquiry respecting the revenues, patronage, see houses, demesne and mensal lands, belonging to the several archiepiscopal and episcopal sees, cathedral and collegiate churches, and all ecclesiastical benefices, with or without cure of souls, in Ireland, and to report from time to time thereon. It is from the returns of the dignitaries and beneficed clergy of the Irish Church, and from the Report of the Commissioners of Religious Instruction in Ireland, appointed in the following year, that I have taken the statistics with which I have troubled the House. In anticipation of those returns, and, probably, in some degree to diminish the shock which their publication was likely to occasion to the Protestant Church Establishment in both countries, the Whig Government of 1833 presented to the House of Commons, through Lord Althorp, a Bill which, in the course of the Session, became the 3 and 4 *Will. IV.* chapter 37, "An Act to alter and amend the Laws relating to the Temporalities of the Irish Church."

No matter to what church or denomination of religionists a man may belong, it is impossible for him, with a knowledge of the state of things which then existed, and which still exists in Ireland, to read that Act without a sense of shame and humiliation. If the thing were not in the Statute-book to be seen and wondered at, it would stagger credulity to believe that in the thirty-third year after the Irish people had intrusted all its chances of reparation for past injustice, all its hopes of happiness and good government for the future, to the honour and magnanimity of the people of England, such a measure could have passed the Imperial Parliament. It dealt with the

whole of the ecclesiastical revenue of a country containing a population of 7,944,000 souls, of whom 7,091,867—that is, more than all the inhabitants of many considerable States—Sardinia, Bavaria, Belgium, Portugal, Sweden, Denmark, Wurtemberg, Tuscany—had for three centuries been excluded by conditions to which they entertained conscientious scruples from deriving any benefit from the ecclesiastical revenues of their country, and not one word in it from which it could be suspected even, that any portion of the Queen's Irish subjects were other than Protestants of the Episcopal Church of England and Ireland! Taking notice of the fact that the archbishops and bishops of Ireland were possessed in right of their sees of 600,000 acres of land, let for the most part on leases of twenty-one years, which were annually renewed upon terms so improvident as respects the permanent interests of the Church, that the bishops received no larger income from them, fine and rent included, than 120,680*l.*; it provided that leases in perpetuity at utterly inadequate rents and rates of purchase, should be granted to the church tenants who applied for them. It reduced the number of the bishops from twenty-two to twelve, thereby virtually declaring that the enormous sum of 75,000*l.* annually, or, since the Union, two millions sterling, had been received by bishops alone, for no purpose of general utility—civil or religious. It dealt in like manner with an annual income of 20,000*l.*, theretofore received by Church dignitaries, who, as such, had no cure of souls, and no duties to perform. It authorised the lease in perpetuity of twelve episcopal palaces to persons, and on terms to be approved of by the Lord Lieutenant. It imposed a tax varying from 2½ to 15 per cent on all spiritual preferments of the annual value of 300*l.* and upwards, and vested the income economised from all these sources in a Commission composed chiefly of bishops of the Established Church, to be by them applied to the augmentation of small livings and to the purposes theretofore provided for by the levy of church rates and parish cesses—that is, in supplying stoves, candles, surplices, bibles, prayer-books, and sacramental elements, in defraying clerks' and sexton's salaries, for the wealthiest members of the community, and in building, rebuilding, repairing, and furnishing for their accommodation, and the health of

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their souls, the parochial churches in which the matins, even-song, and celebration of the two sacraments, as is mentioned in the Book of Common Prayer, were read. As to the millions, for whose ignorance or forgetfulness of God's law, the safety of society could allow no excuse to be admitted in their Sovereign's courts of justice, they were treated as they had been before in the days of Elizabeth and of Charles, of William and of Anne, and by all Acts of a later date relating to a similar or cognate matter—the Acts of Settlement and Explanation—the Acts relating to glebes and glebe houses, to churches and diocesan schools, the Charitable Donations and Bequests Acts, the Act of Union; that is, in the emphatic language employed in the Act of Uniformity, to fix the status of the Presbyterian ministers, at the Restoration as if they were all “naturally dead” (17 & 18 Charles II. c. 6, s. 8), or rather as if they were beings without souls to save, unaccountable as the beasts which perish.

The Act had scarcely become law, when the very men who had recommended it to Parliament were dissatisfied with its shortcomings. The attainment of the only end of a Church Establishment, the civil utility of disseminating a knowledge of Christian truth, was as far off as ever. The law, like all former ones on the same subject, was a law for the benefit of a privileged class and against the body of the Irish people. I am not about to weary the House with a detail of the discussions which took place in this House during several successive Sessions on the subject of the temporalities of the Irish Church. Suffice it to say that on the Motion of Lord John Russell, Sir Robert Peel being then in power, this House, on the 7th of April, 1835, passed the following Resolution—

“That it is the opinion of this House that any surplus of the ecclesiastical revenue, which may remain after fully providing for the spiritual instruction of the members of the Established Church in Ireland, ought to be applied to the general education of all Christians.

“That it is the opinion of this House, that no measure on the subject of tithes in Ireland can lead to a satisfactory settlement which does not embody the principle contained in the foregoing Resolution.”—[3 *Hansard*, xxvii. 879.]

It was during the debate on that Resolution—which displaced the Government of Sir Robert Peel, and restored the party of the noble Lord to power—that he made

the remarkable speech which will form a prominent object in the history of his great career, the engagements of which he stumbled fearfully during the last Session in his attempt to overleap, and which contains promises and pledges too emphatic to be ever forgotten, and too solemn to be creditably unredeemed—

"To an Address," said the noble Lord, "of this House, assuring His Majesty of our Resolution to maintain the Legislative Union inviolate, His Majesty was pleased to return an answer, in which he stated that he should be at all times anxious to afford his best assistance in removing all just causes of complaint, and in sanctioning all well-considered measures of improvement. This was the answer of His Majesty to the claim on the petition of a large portion of the people of Ireland, enforced by a Member of this House (Mr. O'Connell), in whom they had the greatest confidence, and who undoubtedly possessed abilities to place his arguments in the best and strongest point of view.

"In pursuance of this answer, which was adopted by the House of Lords, and thereby became as it were a solemn compact between the Parliament of the United Kingdom and the people, given by the King, received by the Commons, and approved by the Lords, I come before you to represent to you what I consider a just cause of complaint by the people of Ireland, and to induce you if I can, to take a step to obtain a well-considered measure of improvement. My complaint is, that nothing of that kind has yet been done or attempted. Either you are prepared to do justice to Ireland, to consider her grievances, and redress her wrongs, or you are not. But if you tell us that our position is such that any measure for these objects would be injurious to England, and dangerous to her Church Establishment, which prevents the remedy of the abuses of the Church of Ireland, you surely then have no right to say you will maintain the Legislative Union.

"I do hope that hon. Gentlemen opposite will grapple with this great question on clear and intelligible grounds. I must protest against any proposition not founded in distinct and known principles, and which does not tend directly to the good of the State. But we are told, in defence of the present mode of applying Church property in Ireland, and the greatest number, fifteen to one, it is said, of the owners of land in fee, are members of that Church. Sir, if I could fancy that any one would hold such a doctrine as this—that a Church Establishment was intended originally for the exclusive benefit of the rich—that spiritual instruction should be given to men only who had an estate of inheritance, that none but a man who possessed a freehold estate should be entitled to the comfort and consolations of religion—I could then understand the argument to which I have alluded; but when I refer to the great authorities I have quoted, who cannot be questioned or repudiated, and when I find it laid down that a Church Establishment is intended for the benefit of all classes, and more especially for the benefit, the instruction and consolation of the poor, it is not enough to tell me that those who originally contribute the sums which constitute the revenues of the Church are Protestants and members of that Church, for I am bound to look

at the effect of the payment of tithe on the whole as a system."

I am not sorry, in some respects, that the noble Lord is not present, to be reminded by me of an opinion thus deliberately declared by him.

Twenty years have gone since that speech was uttered, and "nothing of the kind" suggested in it has yet been done. I read it as the well-considered conclusion of one who, on constitutional questions, has long been of the highest authority in this House—the acknowledged leader of a great political party, a strenuous supporter of the Protestant Government and religion. I read it, to vindicate the course which I am pursuing, and for the purpose of inducing the English people and its representatives in this House to reflect whether it be not now possible, by well-considered measures of improvement, to remove once for all the great difficulty of British rule in Ireland, the admitted impediment to the success of every scheme of useful legislation. The ecclesiastical revenues of Ireland, under the operation of the Church Temporalities Act and the Tithe Rent Charge Act, may be stated as follows—

Income of Ecclesiastical Commissioners derived principally from the revenues of the suppressed sees, the revenues of suspended dignities and benefices, and the tax on bishoprics and benefices . . .		£95,000
Income of archbishops and bishops . . .		68,000
Parochial church revenue . . .		438,000
Revenue of dignitaries . . .		12,000
Revenue of prebendaries, canons, &c. . .		10,000
		<hr/>
		£623,000

The item of parochial church revenue is subject to some deductions; and it may be very true, as often stated by the right hon. Gentleman the Member for the University of Dublin, that if divided among all the beneficed clergymen, it would afford but a reasonable income for each. But in my opinion, unless for the purpose of correcting the exaggerated notions which some people entertain of the wealth of the Irish Church, it is quite idle to look at its revenues thus in the gross, or to estimate by a system of averages the policy of their actual distribution. To arrive at any satisfactory conclusion we must look at the detail of the expenditure, at the extent of the spiritual need supplied, and the spiritual usefulness effected by it, in the hands of its present recipients, and if we are willing to do so in a fair and charitable spirit, we shall, I doubt not, arrive at a very clear conviction, that the civil utility

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which alone can justify a religious establishment, might, without impairing the dignity or efficiency of the Church, or weakening the Protestant religion, be materially promoted by a change in the distribution of the Church revenues.

To begin with the income now at the disposal of the Ecclesiastical Commissioners. I propose, in the first place, by the Bill which I ask leave to present, to lessen the amount of their disbursements, by providing that the requisites for divine worship in the churches and chapels of the Establishment shall henceforth be supplied at the expense of those who worship in them. The wealthiest portion of the community may well support the cost of the sacramental elements, the Bibles, Prayer-Books, surplices, stoves, candles, clerks' and sextons' salaries, from which they alone derive any benefit. This would effect an annual saving of 35,000*l.* Secondly, I propose that on the death of the now incumbent prelates, no archbishop shall receive for his own use a larger income than 4,000*l.*, free of all deductions; and no bishop a larger income than 2,500*l.*, in addition to the value of the episcopal palace, demesne, and mensal lands belonging to his see; and that the surplus revenue beyond these amounts should be paid to the Ecclesiastical Commissioners for Ireland. This would, in due time, increase their receipt by an amount of 32,000*l.* Thirdly, I propose that the appointment of clerks to certain benefices in the provinces of Dublin, Cashel, Tuam, 395 in number, all of which together did not (1834) contain more than 16,000 members of the Established Church out of a population of 900,000, but of which the parochial revenue is about 80,000*l.*, shall, on the death of their incumbents, be suspended, and that they shall be annexed, where they conveniently may be, to contiguous benefices, or consolidated in groups of three or four benefices into unions of an annual value of not less than 200*l.* per annum, and if outlying, to be served by curates at stipends not less, in any case, than 100*l.*, with the use of the glebe house, if any, at a nominal rent; the churches, for the event of future serviceableness, being in all cases kept in substantial repair, and an option being reserved to the members of the Established Church, with the approbation of the bishop, to have them used for divine service on giving security to provide 100*l.* for the stipend of a curate, and the cost of the

requisites for divine service. After making reasonable provision for these objects, I estimate an eventual surplus from this source of 50,000*l.*—leaving 30,000*l.*, in addition to churches and glebe houses, for the spiritual instruction and attendance on probably not more than 13,000 members of the Established Church. Fourthly, I propose that after the death of all the present incumbents, except those whose benefices form part of the larger cities, no beneficed clergyman in the dioceses of Armagh and Clogher, Down, Connor, and Dromore, Derry and Raphoe, and Kilmore, should have a larger income than 400*l.*, and no beneficed clergyman in the remaining dioceses a larger income than 300*l.*, free of all taxes and deductions, in addition to his glebe house and twenty acres of glebe, should there be glebe of that amount belonging to his benefice. Lastly, I propose that the annual remuneration of the Ecclesiastical Commission shall, after the death or resignation of its officers now receiving salaries, not exceed 4,000*l.*

By these arrangements I think there can be no question that the receipt of the Ecclesiastical Commissioners for Ireland would at once be relieved from a disbursement of 35,000*l.*, leaving a present disposable income of 60,000*l.*; and that, eventually, their receipt would be increased by the addition of sums of 32,000*l.*, 50,000*l.*, 50,000*l.*, and 2,000*l.*, to—229,000*l.* From this sum, however, there would be two large items of deduction; first, the amount of curates' stipends. If the income of the benefices should be reduced in the way proposed, the incumbent ought not to bear the whole charge of the necessary assistance of curates, of whom there are now about 600, with stipends varying from 50*l.* to 75*l.* per annum. No reasonable man can be satisfied that an educated gentleman, a minister of the Established Church, perhaps a married man, with a family, should have a less official income than 100*l.* per annum, of which I propose that the Ecclesiastical Commissioners, should they think fit, shall be empowered to supply three-fourths, leaving only one-fourth a charge upon the incumbent. This would probably (the number of curates being to some extent reduced) require a sum of about 50,000*l.*; and inasmuch as the tax on benefices, which now amounts to 10,000*l.*, would cease, I may estimate the cost to the Commissioners of the change at 60,000*l.* to be deducted from their eventual income of

*Mr. Sejeant Shee*

229,000*l.*, leaving a sum of 169,000*l.* They have now, therefore, a present permanent income of 95,000*l.* They would under the proposed arrangement have a permanent eventual income of 169,000*l.* Now, this is public money at the disposal, for the purposes of that civil utility for which religious establishments exist, of the Crown and Parliament of the United Kingdom. Those who dispense it should be accountable to the Crown and Parliament. It is idle to suppose that it can be made applicable to those purposes of civil utility, which are the fruits of religious instruction and religious observance, except through the medium to a great extent of the Presbyterian and Catholic Irish Churches; and I therefore propose that there should be appointed, on terms as nearly as possible the same as the terms under which the present Ecclesiastical Commission is appointed, and like it accountable to Parliament, two more Ecclesiastical Commissions—one Presbyterian, the other Catholic; and that the whole of the eventual ecclesiastical revenue received by the Ecclesiastical Commission should be divided into six parts, of which two-sixths parts should be retained by it for the purposes (except the disbursement for church requisites) to which it is now applied—one-sixth made over to the Presbyterian Commission, and three-sixths parts to the Catholic Commission, to be by them applied in building, rebuilding, repairing, and furnishing the churches and chapels in which the Presbyterian and Catholic people assemble for public prayer. The Bill will contain certain provisions to prevent the reduction of the sums in the hands of the Ecclesiastical Commissioners, for the purpose of their commission, in any event, below the sum of 55,000*l.*; but subject to that arrangement it will provide that a sum of 30,000*l.* shall be forthwith annually transferred by the Ecclesiastical Commissioners to the Catholic Commission, and 10,000*l.* to the Presbyterian Commission. The Church Temporalities Act made it obligatory on the bishops who continue in the receipt of the revenues of their sees, and on the Ecclesiastical Commissioners in whom are vested the revenues of the suppressed sees, to convert the leases under which the church tenants held, into perpetuities, subject to fixed rents, at rates of purchase much too liberal for the tenants and most unprovident for the Church, as a permanent corporation for the cure of souls. I do not desire to disturb that arrangement,

beneficial as it undoubtedly was to the Protestant lay interest of Ireland. The value of the fee simple of the see estates, estimated on the principle prescribed by the Act for its computation, and subject to the rent of 120,000*l.*, was 1,200,000*l.*; and of the sum of about two millions of money received and disbursed by the Ecclesiastical Commissioners, since the date of their commissions, 500,000*l.* was the produce of these perpetuities. There remains, as I understand, to be realised, purchase money of perpetuities to the amount of 600,000*l.*; and I propose that this sum, subject of course to the rents reserved, should be applied to the purchase, in every Catholic parish, of a glebe not exceeding twelve acres, and the erection thereon of a suitable residence or residences, for the parish priest and his curates. The Presbyterian minister receives from the Crown an annual stipend of 75*l.*, which ought to be increased to 100*l.*, and may perhaps be considered an equivalent to him for this arrangement; but I should be very glad to make provision, if it were agreeable to them, for the erection of manses for the clergy of the Presbyterian churches. I propose also that the bishops and priests of the Catholic Church, should, like the bishops and clergy of the Established Church, be corporations, that is, endued with that legal immortality which will enable them to take property to them and their successors, without the intervention of trustees, or the roundabout machinery of Boards of Charitable Donations and Bequests, subject, of course, to the Acts in the nature of mortmain now in force. It will be necessary for this purpose to remove any doubts which may arise upon the construction of the Ecclesiastical Titles Act, as to the legality of the spiritual office and jurisdiction of a Catholic bishop. In prohibiting the use of territorial titles it was not the intention of the Government of the now President of the Council, and cannot have been the purpose of Parliament, to deprive the Catholic prelates of the legal status in their native land which was secured to them by the 21 & 22 Geo. III. c. 24, in Ireland, and 18 Geo., III. c. 60, in England, and by the Emancipation Act. I trust no objection will be made to a declaratory statement to that effect in the Bill which I have prepared. The provisions which I have explained to the House, having for their object the suspension of the appointment of clerks to benefices with a very small Protestant

population, would interfere to some extent with the ecclesiastical patronage of individuals and of the Crown. As far as I have been able to collect the opinions of churchmen, it seems to be considered that the influence of such patronage, by widening the access to its ministry of candidates for holy orders, is conducive to the interest of the Establishment. The patronage of the Irish bishops is enormous; the Bill will contain provisions for giving equivalents out of it after the next avoidance of the sees, or compensation (as provided by 3 & 4 Will. IV. c. 37, s. 114), to lay patrons and the Crown, which will obviate, as I think, the possibility of injury or injustice to them. I include under this head the large patronage of the University, which, being now disposable for the encouragement of a high standard of theological and general attainments among those destined for the ministry of the Church, could not be diminished without impairing the most legitimate of its influences, and indirectly weakening the Protestant religion.

Having thus stated the provisions of the Bill which I ask leave to introduce, I may be permitted, I trust, to refer generally to the benefits I expect from its adoption, and the recommendations which it presents to sincere members of the Catholic and sincere members of the Protestant Churches—to all who have at heart the promotion of that civil utility which is the fruit of religious instruction as well as the just influence of the Queen's Government in Ireland, and the peace, strength, and harmony of the empire. Under it the diminution of income in every bishopric and benefice would be contemporaneous with promotion, increase of rank, and of worldly means to a new incumbent. It would preserve to the Protestant prelates that temporal precedence in Courts and Parliaments which is the fitting attribute of their connection with the Ecclesiastical Establishment of the seat of empire, and the authority which they derive from the head of the Church and of the State. It would leave all vested interests, and all episcopal and parochial incomes during the lives of those who now enjoy them, untouched. It would deprive no Protestant congregation of the opportunities of religious worship, or the blessing of pastoral superintendence; it would increase the incomes of the incumbents of small livings, and of the working curates; it would secure that share of church patronage which is in lay hands, or an equivalent amount of patro-

*Mr. Sergeant Shee*

nage to those by whom it is now dispensed; it would relieve the clergy of the Established Church from the disheartening consciousness, that for spiritual service to a small and rich minority, they receive the whole of the ecclesiastical revenue of their country.

Without departing from the settled policy of the Catholic Church of Ireland, which rejects all connection by means of a pecuniary provision between its clergy and the State, it would secure to every parochial minister a suitable residence, and a certain amount of visible inalienable comfort, leaving him still dependent for his personal support on the voluntary offerings of his flock. It would preserve to the Catholic prelates that entire freedom from control, influence, and interference, which is much better in their estimation than temporal dignity or State favour, and essential to the independent exercise of their authority and jurisdiction. It would relieve the Catholic and Presbyterian people from the burthen of maintaining the fabrics of their churches. It would secure as much of visible religious equality in every parish as is consistent with the connection of the Protestant Church with the State, and the repugnance of the Catholic Church to such a connection.

My firm conviction is, and I would not say so if I did not know that many persons of weight and influence are of the same opinion—that it would go far to close the deep wounds which the unhappy contests of past ages—the Reformation, the Restoration, and the Revolution—have left in the national mind of Ireland. I believe that whatever concessions it contains would be repaid by an increased security to the Protestant Church in all its essential usefulness, and to the Protestant Government in the cheerful loyalty and durable contentment of the Irish people. In the earnest desire of promoting these happy results, and not with any object of sectarian triumph or sectarian gain, I ask permission to bring in this Bill.

Mr. POLLARD-URQUHART seconded the Motion.

Motion made, and Question proposed,

“That leave be given to bring in a Bill to alter and amend the Laws relating to the Temporalities of the Church in Ireland, and to increase the means of religious instruction and church accommodation for Her Majesty's Irish subjects.”

Mr. BROTHERTON said, that as the House had been sitting till two o'clock on the previous morning, and it was now after

twelve o'clock, and this was an important debate, he should move that it be adjourned.

MR. NAPIER hoped that there would be a *bona fide* adjournment. He did not shrink from, but courted, inquiry upon this subject. The hon. and learned Serjeant had quoted the statement which he had made to the House, and he (Mr. Napier) recommended hon. Members to read the reply which had been given to it by the Archdeacon of Meath, who had shown that, taking the allowance made to it by the hon. and learned Serjeant, the Established Church would require an addition of 78,000*l.* to its present actual available income. When the adjourned debate came on, he trusted that it would be shown that the propositions of the hon. and learned Serjeant were contrary to every principle of the Constitution, contrary to the oath to which he had himself alluded, and contrary to the Act of Union, and to all the obligations which were binding upon the parties to that engagement.

SIR JOHN YOUNG said, he hoped that there would on a future day be a debate upon this subject, because he was prepared to show, upon the statement of the hon. and learned Serjeant, that the revenues of the Established Church were not sufficient to provide the allowance which he had said that he was willing to give to the ministers of that Church. There were many other points on which the hon. and learned Serjeant might be met, and when the adjourned debate came on, he should be prepared to state the grounds on which he should meet the proposition for the introduction of this Bill with a decided negative.

MR. NEWDEGATE said, that according to the understanding of every Protestant Member of that House, it was not competent for the hon. and learned Serjeant, consistently with the oath which he had taken, to make the Motion which he had proposed. ["No, no!"] Hon. Members might deny their understandings, but the words of the oath had recently been debated, and he did not doubt that it could be shown that the understanding which the hon. and learned Serjeant appeared to entertain of what that obligation was, was not such as an Englishman and a Protestant would place upon those words, according to their common and grammatical interpretation, without mental reservation or evasion whatever.

MR. J. D. FITZGERALD said, he

could not allow the last observation of the hon. Member for North Warwickshire to pass without saying that he should on a future occasion be prepared to show, by reference to the history of the oath, and by reference to authorities, among whom were the Earl of Derby and Lord St. Leonards, that the interpretation to be put upon it differed entirely from that contended for by the hon. Member (Mr. Newdegate). As to the observation of the right hon. and learned Gentleman (Mr. Napier), that all the statements of the hon. and learned Member for Kilkenny (Mr. Serj. Shee) were capable of ample refutation, he would only say that it was not then very late, and debates had been forced upon the House by the right hon. Secretary for Ireland at a much later hour. The "whips" of both sides had about half an hour before been very busy emptying the House; and though that might be a mode of giving the go-by to a matter, it was not the way to meet a question which was believed to be capable of ample refutation.

MR. LUCAS said, he would not at that hour go into the question of the oath further than to say that his interpretation of it differed from that put upon it by the right hon. and learned Member for the University of Dublin (Mr. Napier) and the hon. Member for North Warwickshire (Mr. Newdegate) who had referred to it. His only objection to the proposition of the hon. and learned Serjeant was, that it did not deal in a sufficiently sweeping and radical manner with this great and enormous grievance, which had been too long endured with patience, but which he believed would not much longer be patiently endured. He also objected to that part—a very large part—of the proposition which would give a portion of the funds taken from the Established Church to the Roman Catholic Church; and he believed that that was generally disapproved of by the Roman Catholics of Ireland.

MR. SERJEANT SHEE said, he could not comprehend how any Gentleman in that House in the position of the right hon. and learned Gentleman the Member for the University of Dublin (Mr. Napier), having plenty of time to answer him, should take a book in his hand, and state that that book refuted what he had said. If the right hon. and learned Gentleman had read that book, he knew that it did not. So little did it do so that it only pointed out errors in the whole of his figures to the

amount of between 15,000*l.* and 20,000*l.*, half of which was in favour of the Church. Did not he (Mr. Serj. Shee) know that the writer of that book had complimented him on his respect for his oath, and had called on him personally to evince his respect for him? The right hon. and learned Gentleman knew he could not refute what he (Mr. Serj. Shee) had stated; but he had the unfairness, late in the evening, and contrary to his knowledge of what was in that book, to let it go forth to the country that he (Mr. Serj. Shee) had stated what he had before written, and what was not true. He declared upon his honour as a gentleman that he believed every word which he had stated to be true, and he defied the right hon. Secretary for Ireland and the right hon. and learned Gentleman (Mr. Napier) to refute a word of it. So cautious had he been that Archdeacon Stopford, having objected that the amount of some benefices in his diocese had been overstated, he had abstained from referring to income except in three cases, and had called attention not to income, but to population. ["Question, Question!"] He did not wish to trespass upon the House a moment longer than was necessary; but upon the subject of the oath might he be permitted to say this? ["No, no!"] What! not permitted, after he had been charged with something like perjury? He thought he could understand an Act of Parliament as well as the hon. and learned Gentleman the Member for Enniskillen.

Mr. WHITESIDE begged to say that when the hon. and learned Serjeant brought forward a Motion he must expect to hear it criticised, and argument met by argument. With regard to the book which had been referred to by his right hon. and learned Friend (Mr. Napier) being a refutation of what had fallen from the hon. and learned Serjeant, he could only say that no man who had written a book was willing to allow that the facts contained in it had been refuted.

Debate adjourned till Monday next.

The House adjourned at half after Twelve o'clock.

# HOUSE OF COMMONS,

Wednesday, June 14, 1854.

MINUTES.] PUBLIC BILL.—1<sup>o</sup> Prisoners Removal.

## CHURCH RATES BILL.

Order for Second Reading read.

Mr. Serjeant Shee

Mr. PACKE said, it was with great reluctance that he had come to the determination of withdrawing this Bill. He had been led to take that course not at all by any want of confidence in the measure itself—for he had received from all parts of the kingdom strong testimony in favour of its principles, although there were objections to some of its details—but he had not been able to introduce it until after Easter, having fully believed, from what passed at the commencement of the Session, that the Government would have brought forward a Bill on the subject; and this was the first Wednesday he had been able to fix for the second reading. The late Sir Robert Peel had told Lord John Russell, in 1835, that the question was one of great importance, and that the Session ought not to pass without the introduction of some measure for its settlement. The different Governments have been nineteen years considering what measure to bring in, and there was now no Bill before the House on the subject but what he must call the "Church Destruction Bill" of the hon. Member for the Tower Hamlets (Sir W. Clay). He had reason to hope that the noble Lord the late Member for London, if he had now been in his place, would have supported the principle of the Bill, although he had objected to some of its details, for the noble Lord had said that the national Church ought to be supported by the nation. If the Bill had gone into Committee, he had intended to strike out all the clauses for the registration of Dissenters which had been objected to as creating an invidious distinction between Churchmen and Dissenters. The subject was a very difficult one, no doubt, for in the great majority of instances, although conscience was the ostensible reason, pocket was the real reason why the payment of church rates was objected to. The Session was too far advanced to render it probable that this Bill could be carried through both Houses this year, and he should, therefore, move that the order for the second reading be discharged; but he thought it due to those who had given him their confidence to state that, unless he received a satisfactory assurance from the Government that they would bring in a Bill upon the subject, he should himself introduce a measure on the principle of this at the commencement of the next Session.

Sir JOSHUA WALMSLEY said, that

he had that day presented a petition from the Wesleyan Methodists of Leicester against church rates. There had been statements made to the effect that the Wesleyans as a body were not averse to church rates. He therefore, on the behalf of that portion of his constituents, repudiated and entered his protest against such statements.

SIR WILLIAM CLAY said, he was surprised that the hon. Member opposite (Mr. Packe) should have introduced a Bill which he must have known would not be acceptable to those for whose relief it was intended. He only hoped he would reconsider his determination to reintroduce the Bill next Session, and he also hoped that his impression, that the noble Lord the Lord President of the Council would have approved of this measure if he had been in his place, was wholly unauthorised. Those who, like himself, had supported the noble Lord for a long series of years, would feel extreme regret and disapprobation if they could believe that that impression was correct.

MR. PACKE said, he could assure the hon. Member that he had no kind of authority for supposing that the noble Lord would have supported him; but from his former speeches and his former conduct on this question he felt a hope that he would have approved of the principle of the Bill.

SIR BENJAMIN HALL said, he had drawn a directly contrary inference from the noble Lord's speeches and conduct during a period of twenty-five years. He believed the noble Lord would have been entirely opposed to this measure, which, by creating and keeping alive an antagonistic feeling between Dissenters and members of the Church, would have produced the most mischievous results. If the hon. Member meant to omit those clauses which would establish the invidious distinction to which he had referred, he must introduce an entirely new measure, for those clauses were the very gist of the present Bill. Year after year the feeling against church rates had been growing stronger, and so it would continue to do until they had been entirely done away with.

Order for Second Reading read and discharged.

Bill withdrawn.

PUBLIC REVENUE AND CONSOLIDATED  
FUND CHARGES BILL.

Order for Committee read.

House in Committee, Mr. BOUVIERIE in the Chair.

Clause 1.

MR. WHITESIDE said, he wished to make some inquiry relative to a statement of the right hon. Gentleman the Chancellor of the Exchequer, that the schedules in the Bill were to be recast, and the judicial officers of Ireland placed in the same position as those of England.

MR. KEOGH said, an alteration had been made in the schedules, which would exempt the Master of the Rolls and Masters in Chancery in Ireland from the operation of the Bill.

COLONEL DUNNE said, he approved of the principle of the Bill, but thought, if the schedules had been altered, the alterations ought to be printed, and in the hands of Members, before the Committee were called on to consider them.

MR. NAPIER said, there were other persons than those holding judicial offices—those, namely, who held freehold offices under Acts of Parliament—who objected to be placed in a position in which their salaries might be interfered with from year to year. They ought, before passing the Bill, to have an exact statement of what was proposed, and to see that precisely the same course was pursued towards Ireland as towards this country.

MR. W. WILLIAMS said, he had not the least objection to except the actual Judges of the land from the operation of the Bill, but he did not see why the Masters in Chancery in Ireland should be excepted. The judges of the county courts in England were much more important officers than the Masters in Chancery in Ireland, and their salaries were voted annually. He thought both countries should be placed on equal terms.

MR. WHITESIDE said, he quite agreed with the hon. Member for Lambeth, that Ireland should be treated the same as England; but his complaint was the reverse of the hon. Member's—that Irish offices were included, whilst English offices of an analogous character were not. The hon. Member had shown his utter ignorance of the functions of the Master of the Rolls in Ireland when he said the functions of county court judges were much more important. [MR. W. WILLIAMS: I said the Masters in Chancery.] That was just as great a mistake as the first. The Masters in Chancery in Ireland disposed of a vast quantity of judicial business, and decided

the most difficult questions. There never was a greater mistake than to subject the salaries of high legal functionaries to annual discussion.

Mr. J. D. FITZGERALD said, he fully concurred in the opinion that the Masters in Chancery in Ireland decided the most important questions, and that they ought to be excluded from the operation of the Bill. He also considered that the Commissioner of the Insolvent Debtors' Court and the assistant barristers for registering voters in Ireland should be excluded. He could not conceive why the former should be placed in a different position from any other judge, and the salaries of the latter were charged on the Consolidated Fund by a Parliamentary compact made only three years ago.

Mr. FRENCH said, he thought it exceedingly objectionable to bring the salaries of these officers annually under discussion.

Mr. AGLIONBY said, he must remind the Committee that they were now discussing the schedule upon the first clause, and he would suggest that it would be better to postpone that discussion until they came to the schedule.

Mr. J. WILSON said, the real object of this Bill was to bring before Parliament every year all the various charges, as far as possible, in the expenditure of the United Kingdom. It had been a policy of law to make the judges of the land independent of Parliamentary supervision, and therefore they were excluded from the Bill, to prevent the possibility of its being supposed either Parliament or the Government of the day exercised any influence over them. The object of the Bill was to bring all other officers, not within that class, under the annual supervision of Parliament, and he apprehended there would be no great risk incurred, because he knew no instance in which Parliament had not respected the existing holders of office. But it often happened that discussions upon Estimates were attended with the most beneficial results. Disagreeable as they were to the Secretary of the Treasury, they brought before the eye of the public the institutions of the country, and prepared the public mind for great improvements in the reconstruction of offices or their abolition altogether. If hon. Members had waited until they came to the schedule, they would have found that in the amended Bill exceptions were made of the Master of the Rolls and the Masters in Chancery in Ireland. It was the desire of the Government to place

*Mr. Whiteside*

England and Ireland upon the same footing; and if Irish Members, before the third reading, could point out instances of offices in Ireland being included, which were analogous to offices in England, not included, but paid out of the Consolidated Fund, the Government would be prepared to consider the propriety of making alterations in the Bill.

Mr. G. BUTT said, he must complain that the schedule recited upwards of 100 Acts of Parliament without specifying the officers created under them. It was, in fact, giving no information to Members. The hon. Gentleman spoke of paying the high judicial authorities out of the Consolidated Fund; but did he (Mr. J. Wilson) not consider the Judge of the Insolvent Debtors' Court a high judicial officer? Yet he was to be subjected by this Bill to an annual vote. Why not include all the judicial officers of Ireland in the exception? Everything that had fallen from the hon. Secretary to the Treasury was a condemnation of the schedules of the Bill.

Mr. J. WILSON said, the Parliamentary mode was to refer to the Acts of Parliament, because offices authorised by these Acts might or might not exist, and some might hereafter be created, which, if the offices were named, would require another Act to bring them under the operation of the law. He must deny the interpretation put upon his words by the hon. and learned Member for Weymouth, and he considered that there was no reason why the Judges of the Insolvent Debtors' Court in Ireland should be provided for out of the Consolidated Fund, any more than such Judges in England. The Judges of the Insolvent Debtors' Court in Ireland were in exactly the same position as the Judges of the Insolvent Debtors' Court in England, and he thought that they ought therewith to be content.

Mr. NAPIER said, the case of the assistant barristers had not been answered at all. He should certainly take the sense of the Committee with regard to all officers holding their appointments for life and during good behaviour.

Mr. CHAIRMAN said, he must remind the Committee that any Amendment on the schedule must be moved upon the schedule, and not upon the clause now before the Committee.

COLONEL DUNNE said, he was quite as anxious as the hon. Member for Lambeth to subject every officer to the cognisance

of Parliament, but he objected to judges being subject to annual discussion, as Mr. Serjeant Adams was some time since.

MR. W. WILLIAMS said, no one ever objected to Mr. Serjeant Adams's salary, but when he came for an increase the question was discussed.

MR. KEOGH said, he did not think that his hon. Friend the Secretary to the Treasury had done himself justice in explaining the trouble he had taken in framing the schedule of this Bill; and he (Mr. Keogh) could bear witness to the able and clear specification of officers in such schedule. As to the Judge of the Insolvent Court in Ireland, the Committee would remember that only two nights ago they had voted the salaries of the Judges of the English Insolvent Debtors' Court, and he could not see why the Irish Judges were to be put in a different position from them. As to the revising barristers in Ireland, he had advised his hon. Friend to omit them from the schedule, and he had consented to do so. It had been stated that a deputation from Ireland had come to England relative to this Bill, and he had seen Master Lyle, who represented such deputation. The result of his interview with that learned gentleman was, that, subject to certain alterations, which would be made, Master Lyle generally approved of the measure.

MR. WILSON PATTEN said, he must deprecate this irregular discussion on the schedule, because it would be again repeated when the Committee came to consider it. This Bill had been recommitted at his request, to allow the authorities of the Isle of Man to make some representations to the Government in opposition to their being included, and he wished to know whether those parties had had an interview with the Secretary of the Treasury, and submitted to him the objections they entertained.

MR. J. WILSON said, a misunderstanding to a certain extent had arisen between the Government and the Isle of Man. It was the practice to send to the Lieutenant Governor copies of any Bills affecting the island, and this Bill was sent down before the recess, with an instruction that it would not be committed until afterwards. On Friday se'nnight, however, the Bill passed through Committee, the Chancellor of the Exchequer thinking that the authorities of the Isle of Man would have an opportunity of raising any points

of objection on the third reading, and therefore that no injury could possibly ensue. The Lieutenant Governor was again written to, and informed that the Bill had passed through Committee, but would not be read a third time until after the recess. Subsequently, at the request of the hon. Member for Lancashire (Mr. W. Patten) the order for the third reading was discharged, and the Bill was now recommitted. The interest which the Isle of Man had in the Bill was this—that against the Customs duties of the island were charged, first, the cost of collection; secondly, the cost of the government of the island; and, thirdly, certain improvements, chiefly of the harbours. But the same system existed with respect to Scotland, where the whole judicial functionaries were paid out of the Customs duties before the balance was received by the Imperial Exchequer. The authorities of the Isle of Man objected to Parliament dealing with the Customs revenue, on the ground that the whole amount of revenue should be expended on the island. Now, Parliament had never recognised that claim, but had imposed duties on the island, the balances of which had been received into the public Exchequer. It was quite obvious that Parliament would still refuse to recognise such a claim, because a similar claim might as well be preferred by Ireland or Scotland. Under those circumstances, the Lieutenant Governor had been informed that the Government attached no importance to the objection, although, to keep faith with the authorities of the island, the Bill had been recommitted. He was not aware that any one was in London authorised to make any objections on the part of the Isle of Man; but there would still be an opportunity, as the third reading could not take place until Friday.

MR. WILSON PATTEN said, he must express his acknowledgments for the statement of the hon. Gentleman, particularly as the Isle of Man was not represented, and no one had charge of its interests in that House. He believed a deputation intended waiting upon the Treasury, to represent the arguments on which their objections to the Bill were based; but after the kindness of the Government, he should not press for further postponement.

MR. J. WILSON said, if the deputation had arrived in town they would have an opportunity of seeing him before the third reading on Friday, but until this Bill pass-

ed they could not proceed with the large Estimates on revenue charges, which were waiting consideration. The authorities of the Isle of Man had not been taken by surprise; the Bill was sent the Friday before the recess, and there had been sufficient time for them to consider it and send a deputation if they thought it advisable.

MR. AGLIONBY said, he must complain that the Government had not supported the Chairman in putting a stop to the irregular discussion on the schedule, and he begged to say he would not continue it further than to warn the Government not to make too large concessions.

MR. V. SCULLY said, he understood the Lord Chancellor of Ireland was to be exempted from the Act. Other parties were also to be exempted. The Judge of the Insolvent Debtors' Court, however, was not included in the exemption, and he saw no reason for making any difference between the case of that Judge and other judicial functionaries. He objected to the transfer of the names of other gentlemen connected with the courts from the Consolidated Fund to the Estimates. They enjoyed their salaries during good behaviour, and many of them had effected insurances on their lives in the belief that their position would not be disturbed; he, therefore, contended that the proposed alteration was a direct breach of faith. Another objection which he entertained to the Bill was, that its provisions would have the effect of setting aside the veto of the Judges, and of enabling the Treasury, by a single vote of the House of Commons, to centralise or abolish all the courts of Ireland. No such provision was made with respect to the officers in the English courts of law, and he therefore considered the proposition with respect to the Irish officers still more unjust than it might otherwise have appeared. He entered his strongest protest against the interference of the Treasury with any of the judicial officers in Ireland, particularly as no interference was contemplated with such officers in this country. It was his intention to move a proviso to the following effect—

"Provided, however, that no person who now or hereafter exercises judicial functions in any part of the United Kingdom shall, in respect of his salary and remuneration as such, be, or be deemed to be, included in the said schedule B; and further, that nothing in this Act contained shall operate so as to interfere with the vested rights of any existing officer, or to place his salary

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and remuneration in a more uncertain or a worse position than the same would have been but for the passing of this Act."

MR. J. WILSON said, the clause suggested by the hon. and learned Gentleman was inconsistent with the intentions of the Bill. So far as the remarks of the hon. and learned Gentleman went to the preservation of existing rights, they were deserving of the attention of the Committee, and he would endeavour, before the third reading of the Bill, to devise some means of protecting those rights.

CAPTAIN SCOBELL said, he must complain of the irregularity of the discussion, and of the Committee being mystified by the hon. and learned Member for Cork County (Mr. V. Scully). He had always been for introducing an exact similarity into the mode of dealing with England and Ireland, and as the hon. Secretary for the Treasury had already given an assurance that parallel offices in the two countries would be dealt with alike, he hoped that would suffice, and that the Government would not allow itself to be badgered out of what they considered good in their Bill.

MR. GEORGE said, the Government had already consented to alter two objectionable features in the Bill; but there still remained another principle of the Bill scarcely less objectionable, namely, that which declared that a body of men holding ministerial offices, who had hitherto been paid their salaries from a fixed and unfluctuating source, should be now turned round upon and told that their salaries were dependent upon an annual Vote of the House of Commons. And although an assurance was to be given to existing holders of office that they would be secured against loss, still he must decline to give his sanction at all to a rule making even prospective appointments subject to such a contingency.

MR. CRAUFURD said, he could see no reason whatever why sheriffs in Scotland, who by the Bill of last Session were to receive salaries varying from at least 500*l.* to 1,000*l.* a year in the case of the sheriff substitute, and in the case of the sheriff principal from 500*l.* to any sum which the Treasury might choose to give him—why these gentlemen should be paid out of the Consolidated Fund, while revising barristers in England, who only received a salary of 200*l.* a year, had to submit to have their stipends annually voted by Parliament.

MR. J. WILSON said, the principle which had been acted upon was this—when the duties of an officer were purely civil, they were to be voted out of the Estimates for the year. But when they were partly civil and partly criminal, they partook of a different character and form, and the reason why the sheriffs in Scotland were placed in Schedule A was, that they were judges not only in civil but in criminal cases. The revising barristers in Ireland were in a similar position, and the two classes were therefore placed in the same schedule.

MR. V. SCULLY said, he would defer moving his Amendment until he saw the course to be taken by the Government.

*Clause agreed to.*

Clause 2 (The annual financial accounts shall be made up to 31st March).

LORD SEYMOUR said, that hitherto the financial accounts had been made up to the 5th of January. Now it was proposed to make them up to the 31st of March, and, therefore, the House would not be in a position to act upon them till June, so that in discussing such matters it would be necessary to refer to accounts two years back. He wished to know if there was to be a double set of accounts, one for the 5th of January and the other for the 31st of March, or whether it was intended to do away with the first set of accounts altogether?

MR. J. WILSON said, that many years ago, when Parliament met before Christmas, the accounts were made up from the 5th of January to the 5th of January. Lord Althorp afterwards altered the financial year to the 5th of April, in consequence of the Parliament not assembling till February, but the financial accounts continued to be made up to the 5th of January. The change was only partial, and did not extend to the whole of the accounts, and led to inconvenience and incongruity. The financial accounts were made up to the 5th of April, but the financial accounts published were made up to the 5th of January, and never corresponded with the Votes of the House, or the expenditure sanctioned by the House, and the object now contemplated was to complete the arrangement made by Lord Althorp. The operation of the clause was not to be compulsory in the first instance, and every endeavour would be made to avoid the inconvenience which had been pointed out by the noble Lord. In making the change now proposed, a

suggestion had not been lost sight of in relation to the propriety of meeting before Christmas, and probably it might be desirable to revert to the old system.

Clause agreed to; as were also the remaining clauses.

On Schedule A being proposed, which includes the salaries, pensions, compensations, &c., charged on the Consolidated Fund.

MR. CRAUFURD said, he would beg to move the omission of the words relating to sheriffs and sheriffs substitute of Scotland.

Amendment proposed, to leave out the words "Salaries of Sheriffs and Sheriffs Substitute, per Act 16 and 17 *Vict.* c. 30."

MR. DUNLOP said, he did not think the omission of the words would effect the object of his hon. Friend.

LORD ELCHIO said, his hon. and learned Friend (Mr. Craufurd) was always in the habit of "running a muck" against these unfortunate sheriffs. Last year he brought in a Bill to abolish them altogether; but the Bill was rejected by a majority of two to one of the Scotch Members. A Bill was afterwards passed for the reform of the Sheriffs' Courts, and the salaries were fixed at between 500*l.* and 1,000*l.* It was important that those salaries should be paid out of the Consolidated Fund, and not brought forward annually in order that the parties might be subjected to the attacks of hon. Gentlemen.

MR. J. WILSON said, he would state to the Committee the reason which influenced the Government in putting the sheriffs and sheriffs substitute into Schedule A. By the Act of Union a reservation was made that the whole of the public officers in Scotland should be paid out of the revenues of Scotland before they were transmitted to England. As it was now proposed to bring the whole of the revenue of Scotland into the Exchequer, it became necessary to provide for the payment of the public establishments in Scotland. The principle which had been followed was this:—There were permanent judges, civil and criminal, who ought not to be the subject of an annual vote. If such mode of payment was necessary in England, it was doubly so with respect to Scotland, from the circumstance which he had just pointed out. In removing one security which they were entitled to by the Act of Union, it was the duty of Parliament to give them the next best security that could be offered.

MR. CRAUFURD: But by the Act of last Session an increase of salary was obtained for those officers. He would only mention that he knew an instance of a sheriff leaving his seat on the bench to go and address the populace at an election gathering; and although the gentleman in question coincided with his (Mr. Craufurd's) views on politics, still he must say such occurrences ought not to take place.

Question put, "That the words proposed to be left out stand part of the Schedule."

The Committee divided:—Ayes 110; Noes 21: Majority 89.

Schedule agreed to.

Upon Schedule B,

SIR HENRY WILLOUGHBY said, he wished to know on what principle the schedule had been framed, for some officers who ought to be included in it were omitted. He also objected to the provision in the Bill that the accounts of expenditure should be presented on or about the 30th of June, as he considered that would be too late to admit of their discussion.

MR. J. WILSON said, he could only repeat the explanation on this subject which he had given at a previous stage of the debate.

MR. GROGAN said, he considered the explanation given by the hon. Secretary to the Treasury as most unsatisfactory. It appeared to him that this schedule was framed upon no definite or intelligible principle whatever. Unless stronger reasons than those they had heard were assigned for such changes as this measure proposed to make, he thought it would be very wrong for the Committee to agree to it.

MR. J. WILSON said, it was his intention to propose some alterations in the schedule.

LORD NAAS said, he wished to know what was the nature of the alterations which the hon. Gentleman proposed to make in the schedule? There was no use in discussing the matter until those alterations were laid before them.

COLONEL DUNNE said, he was greatly surprised to find that the Vote for the Irish police was not in the schedule.

MR. W. WILLIAMS said, he was astonished to hear any objections urged to a measure which he thought was calculated to effect one of the most important financial reforms that had ever been introduced into Parliament.

MR. MACARTNEY said, that his objection to the schedule was that it was crude, and not properly arranged. He knew an office in Dublin which was regulated by Act of Parliament, which was left out of the schedule. He thought that the Government would do much better by adjourning the consideration of this schedule for a week, in order to its being revised and altered in the way intended. The office to which he alluded as being omitted from the schedule was the Fines and Penalties Office.

MR. J. WILSON said, he saw no reason for the postponement of the Bill. On the contrary, such a delay would be attended with considerable inconvenience to the public service. The preparation of large Estimates depended on the passing of this Bill. With respect to the Irish constabulary force, that force was charged on the Consolidated Fund by an Act of Parliament proposed by Sir Robert Peel. At present they did not see their way clear, as to placing that expenditure on the Estimates; therefore they should leave this charge, and several others, on the Consolidated Fund, as provided by the various Acts of Parliament which related to them.

MR. NAPIER said, that the more they discussed this matter the more difficult it was for him to understand upon what principle this schedule was framed. What they differed about was as to the application of a principle. The Government ought to proceed upon some clear and intelligible principle of exemption. He found that Masters in Chancery and assistant barristers were exempted because they were judicial officers. But, he asked, were not the Commissioners of the Insolvent Court judicial officers also? And if so, why should they not be placed in the same category as the others? He thought that the fair course to pursue would be to allow further time in order that the schedule might be more maturely considered. He was, therefore, of opinion that the proposition for the postponement of this schedule was most reasonable and just.

CAPTAIN SCOBELL said, the Bill was a very great concession to the managers of the public purse, and they ought not to fritter away their time with little matters in the schedule, which was a course that was not worthy of that House. Since the discussion began he had seen no less than three or four different sets of hon. Mem-

bers in the House, and in consequence the same explanation had to be given over again; at that rate they would never get through the business.

Mr. BARROW thought the Bill was brought forward in an imperfect state, and he must complain that the Government reserved to itself the right of making verbal alterations.

Mr. KEOGH said, only three such alterations had been made. The Bill had gone through Committee in the presence of all the Irish Members on the other side of the House, without a single objection being raised to either Bill or schedule. It was now again in Committee simply on account of some alterations which had recently been made in it by the Chancellor of the Exchequer, exempting the Master of the Rolls, the Masters in Chancery, and the revising barristers. It was utterly incorrect to say there were any blunders in the schedule.

SIR HENRY WILLOUGHBY said, he wished to know why several clauses had been omitted from the schedule? He would mention only one—which, however, involved a very large sum—the Irish police.

Mr. W. WILLIAMS said, he must express his regret that this Bill did not contain every item of public expenditure. He admitted at the same time that the present Government, in bringing forward this measure, had done more to carry out a great scheme of financial reform than any other Government which had ever existed in this country.

Mr. CRAUFURD said, there were repeated inconsistencies in the Bill; and if they should divide upon the subject, he would give his vote against the schedule under discussion. He thought that all judicial appointments should be placed under the control of Parliament. He should move that the county court judges be included in Schedule B.

Mr. W. WILLIAMS said, that county court judges were not upon the Consolidated Fund at all.

Mr. CRAUFURD said, that, in these circumstances, he should move that they be brought under the control of Parliament.

Mr. V. SCULLY said, that if the officers of the Irish Chancery and common-law courts were to be placed in the Estimates he did not see why the English judges should not be put in the same position.

Mr. KEOGH said, that the English judges were at present in a much worse position than their Irish brethren, having been recently put upon the Suitsors' Fee Fund, which in Ireland was in an almost bankrupt condition.

Mr. V. SCULLY said, that practically the Suitsors' Fee Fund was part of the Consolidated Fund.

Mr. GROGAN said, he would suggest that the schedule should be delayed, in order that hon. Members might have an opportunity of making up their minds. There were many important points which could not be discussed satisfactorily at that time. He was inclined to move, therefore, that the Chairman should report progress.

SIR JOHN YOUNG said, he must express the hope that it would be allowed to pass through Committee without the necessity of an adjournment.

LORD NAAS urged the propriety of delaying the discussion upon the schedule till some future day. He admitted that the Bill was a very good one, but he must complain that its details were defective, or, at least, were such as required careful consideration.

Motion made, and Question put, "That the Chairman do report progress, and ask leave to sit again."

The Committee *divided*:—Ayes 33; Noes 82: Majority 49.

House resumed. Bill *reported*.

#### SUPPLY—WAYS AND MEANS—SUGAR DUTIES.

Order for Committee read.

House in Committee of Supply.

Mr. J. WILSON said, he would now bring forward the Resolution with respect to the use of sugar in breweries. The Bill before the House for the regulation of the sugar duties contained a clause to prohibit the use of sugar in breweries, because the difference between the duty paid on sugar and the corresponding quality of malt was so great, that the Commissioners of Inland Revenue had become alarmed for the security of the revenue. For that reason it was thought necessary to resort to an absolute restriction of the use of sugar in breweries, a restriction which had previously lasted for five or six years, and had only been removed in 1848. He could not say they had been particularly pressed by the importers of sugar on this question, but they thought it to be their duty sedulously to apply themselves to the subject, to see if they could

effect any arrangement by which they could fairly undertake to allow this privilege still to continue without materially endangering the revenue. Upon the whole, they had thought that it was extremely undesirable, and against the policy as regarded trade and commerce which had been followed in this country of late years, to impose any restriction unless it was absolutely necessary to do so. On consideration of this subject with the Commissioners of Inland Revenue, they were prepared to encounter the risk of any fraud that might be practised in consequence of the use of sugar in breweries with regard to the collection of the additional duty over and above that which was paid at the Custom House. The duty to be paid upon sugar at the Custom House is 12s. per cwt., and that duty will be 7s. per cwt. less than the duty payable upon malt. The difference previously between the duty payable upon sugar and the duty payable upon malt was 1s. 6d. per cwt., and the inducement to fraud was not, of course, then so great as when the difference will be 7s. per cwt. They proposed that the brewers who wish to use sugar in their breweries may do so by taking out a small licence, and shall be registered as possessing that privilege, in order that the attention of the Excise officer may be more particularly directed to such brewery than to breweries in general. They proposed that the permission to use sugar in breweries shall still be continued on payment of a corresponding duty equivalent to the new duty upon malt on taking the sugar into the brewery. And they also proposed that every brewer who shall require or wish so to use sugar, shall take out a small licence of 1l. per annum—a mere registration licence—in order that he be registered as a brewer having permission to use sugar in his brewing. In conclusion the hon. Gentleman proposed that the Resolution should be adopted.

MR. THOMSON HANKEY said, he regarded the proposal of the Government as a valuable concession, which he was sure would be appreciated by the trade. He might observe, that the importers of sugar could have no desire to see sugar used in breweries, because sugar could only be used when malt was extremely dear and when the price of sugar was extremely low.

MR. BARROW said, he must complain that hon. Members should be called upon to form a decision upon so important a

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question without the ordinary notice having been given by printing the Resolution with the Parliamentary papers of the day.

MR. J. WILSON said, that the course which had been taken was in conformity with the invariable practice of the House. All financial measures were originated by Resolution in Committee, and no notice was given of the nature of the Resolutions, because, if that were done, the operations of traders would at once be affected, and the objects of the Government might be to a great extent frustrated. This was a mere preliminary Resolution, upon which a Bill must be founded, and in the progress of that Bill through its various stages ample opportunity for discussion would be afforded.

SIR WILLIAM JOLLIFFE said, he thought it was hardly fair to bring forward such Motions without due notice on the part of the Treasury. As regarded the Resolution, he could not perceive whether the relaxation would extend to distillers as well as brewers, and include molasses as well as sugar.

MR. J. WILSON said, sugar was at present permitted to be used in distilleries, and it was not intended to revoke that permission.

COLONEL DUNNE said, the permission to use sugar in breweries was only granted upon the scarcity of corn. It made a very bad substitute for malt; and as it was only a temporary regulation he did not see why it should be continued.

#### *Resolved—*

1. "That, towards raising the Supply granted to Her Majesty, there shall be charged and paid, for and upon all Sugar which, on or after the 6th day of July 1854, shall be used in any part of the United Kingdom, by any brewer of beer for sale, in the brewing or making of beer, the Duty of seven shillings for every hundred-weight, and at and after the like rate for any greater or less quantity than a hundred-weight of such Sugar, to be payable and paid by such brewer in lieu of the Duty of Excise chargeable thereon under the third section of the Act 13 & 14 Vict. c. 67, or of any Duty of Excise substituted for the last-mentioned Duty, but over and above all other Duties, whether of Excise or Customs.

#### *Resolved—*

2. "That, towards raising the Supply granted to Her Majesty, there shall be charged and paid upon a Licence to be taken out annually by every brewer of beer for sale, who shall intend to use any Sugar in the brewing or making of beer, the Duty of one pound.

House resumed; Resolution to be reported *To-morrow*.

The House adjourned at half after Five o'clock.

## HOUSE OF LORDS,

Thursday, June 15, 1854.

MINUTES.] PUBLIC BILLS.—2<sup>a</sup> Middlesex Industrial Schools; Witnesses; Legislative Council (Canada); Excise Duties.  
Reported—High Treason (Ireland).

### WITNESSES BILL.

LORD BROUGHAM, in moving the second reading of the Witnesses Bill, said, it was intended to remedy a defect in the law of the United Kingdom in respect to the power for compelling the attendance of witnesses in civil suits. It was probably known to all their Lordships that a *subpœna* issued in England had no power to bring here, to give evidence, a witness from either Scotland or Ireland; and, *vice versâ*, that a *subpœna* issued in Scotland or Ireland had no power to compel the attendance of a witness from England, however necessary the testimony of that witness might be for trials pending in those several parts of the United Kingdom. This, however, was confined to civil writs; for very nearly fifty years ago, by the 45 Geo. III. c. 92, in criminal cases, *subpœnas* operated reciprocally in the three parts of the United Kingdom; that was to say, for a criminal trial in England a *subpœna* issued here could bring a witness from Scotland or Ireland, and, *vice versâ*, a *subpœna* issued in Scotland or Ireland could compel the attendance of a witness from England. Upon looking at the present Bill, which was introduced into the House of Commons by an hon. and learned Friend of his, an eminent Irish barrister (Mr. Butt), he found that it had been drawn after the analogous provisions of the Act passed by Lord Eldon in 1805, with one exception, wherein he thought the present Bill was a great improvement over the former Act; although he was bound to state that the new provision, while it was perfectly adapted to a civil suit, might not possibly have been fitted for every criminal case. He referred to that provision of the Bill by which it was provided that it should not be at the option of either of the parties in a suit to carry a witness from England to Scotland or Ireland, or from Scotland or Ireland to England, but that there should be a discretion vested in the Judge, upon cause shown to

him, to give leave to the party to take a witness from England to Scotland or Ireland, or from Scotland or Ireland to England. He highly approved that addition to the Act of 1805; and if he wanted an instance to show the propriety of some such check upon parties in summoning witnesses, he should remind their Lordships of the case of a noble Friend of his (Lord John Russell), who, having been subpoenaed to give evidence in Ireland, was on the point of being obliged to go over for that purpose, though at his own very great inconvenience, and it might be said also to the very great inconvenience of the public, he being then in a high office, when he was told that he need not go, and that his evidence would be dispensed with. That was in a criminal case, and his Lordship was subpoenaed under Lord Eldon's Act; but the same thing might happen in a civil suit; and, therefore, he thought it was exceedingly well advised on the part of the framers of this Bill to have introduced that check, and to require that no witness should be summoned from Scotland or Ireland to England, or from England to Scotland or Ireland, without the fiat of the Judge placed upon the *subpœna*. He hoped and trusted that in acting under this Bill, should it be passed into law, the learned Judges of the three kingdoms would not consider that their consent was to be given as a matter of course, but would really and truly exercise that sound discretion which the provisions of the Bill were intended to vest in them. The necessity for some such Bill was so obvious that it hardly required to be mentioned. It constantly happened when a witness was wanted to give evidence—no party being able to compel his attendance—that recourse was had to the roundabout and unsatisfactory proceeding of issuing a commission to take his evidence in private, and to transmit the written deposition. What was the consequence? The evidence of the witness was given in private and not in public; under no check of the inspection of the court or the public, and under no check of a sufficient cross-examination, he made his deposition very much as he or the party who examined him chose to have it; and then that deposition went before the court with this additional defect—which accompanied all written evidence—that one Judge or one Commissioner examined the witness and took down his deposition, and that another, who had

not seen him, decided upon it. It was to remedy that evil that this Bill had been proposed; and he hoped and trusted that their Lordships would now give it a second reading. He should take occasion in Committee to supply what he thought was a great omission in the Bill—namely, a clause providing for the payment of the reasonable and proper expenses to be allowed to a witness for his journey both ways.

THE LORD CHANCELLOR was understood to give his sanction to the second reading of the Bill, and to express the opinion that it was not necessary to provide for the payment of the expenses of witnesses, who would be remunerated in the ordinary way.

LORD BROUGHAM said, that he heartily wished for another improvement in the law, giving compensation to witnesses for loss of time. He had known men taken from Liverpool to Manchester, leaving the most important business in which traders could be engaged, and kept in Manchester three or four days till the cases came on, not receiving one farthing of compensation for their loss of time, and in many instances protesting that they would willingly rather pay the debt upon which they were called as witnesses than remain absent from their business during those three or four days. He would like to see some provision introduced into the Bill to amend the law in that respect.

Bill read 2<sup>a</sup>, and committed to a Committee of the whole House.

#### LEGISLATIVE COUNCIL (CANADA) BILL.

Order of the Day for the Second Reading read.

THE DUKE OF NEWCASTLE, in moving the second reading of the Legislative Council (Canada) Bill, said, it will not be necessary for me to trespass at any great length upon your Lordships' attention in explaining the objects of this measure, and the circumstances under which I have thought it my duty on the part of the Government to introduce it. Many of your Lordships will recollect that at the time when the affairs of Canada occupied very much more of the time and the attention of the Imperial Legislature than I am happy to say they have done of late years, the question of the constitution of the Legislative Council of that Colony was one of the most important of the subjects which were then discussed. For a long time it

had been felt by many who were connected with Canada that the constitution of the Legislative Council, by means of nomination by the Crown, did not fulfil those objects for which a second House of legislation exists, both in this and other constitutional countries, as well as in many of our Colonies. The chief object of a second legislative body I apprehend to be that, under whatever form it may be constituted, it should operate in some degree as a check upon the more popular body, and should prevent that hasty legislation which, under circumstances of excitement, is apt to be introduced where one body only exists, and that one popularly elected. But those who have considered that a nominative Upper Chamber fulfilled pretty nearly the duties which attach to the House of Lords in this country—who believed that there was a close analogy between such a nominated body and the House of Lords—must, I think, many years ago, have been disabused of that impression, and must now be prepared to acknowledge, from their experience of the state of things in Canada, that there is little resemblance between a body nominated by the Crown and the House of Lords. I will not now enter into a discussion upon this question. It has been repeatedly debated in this House before; and I recollect that only a few years ago I was myself a party, when sitting on the opposite side of the House, to argue in favour of an elective as distinguished from a nominative Upper Chamber, in the case of the New Zealand constitution, which was at that time under the consideration of the House. Without discussing, then, the question of how little a nominative body in any of our Colonies, under any circumstances, can resemble such a body as the House of Lords, I think it is only necessary to call your Lordships' attention to the position in which the Legislative Council at present is, as regards Canada. I apprehend that nobody acquainted with that Colony will deny that at the present moment, although many of the Members of the Legislative Council are among the most highly respected inhabitants of the Colony; nevertheless the body of which they form a component part does not exercise that due influence in the Colony or in the Legislature which it ought to possess, and that, from circumstances over which the Members of that body, in their individual capacity, had certainly no control or influence,

*Lord Brougham*

they have, as a corporation, to a certain degree fallen into disfavour with the colonists—to such an extent, indeed, that I believe it is an undeniable fact that those who are most distinguished in the Colony, and who must be considered by any Governor of Canada best fitted to be placed on the Council, have frequently expressed their great repugnance and unwillingness, and in many instances their positive refusal, to enter into the Legislative Council. I think the statement of this single fact might almost be considered as conclusive against any determination on the part of the Legislature of this country to insist upon the maintenance of the existing system. I will come immediately to the course which I propose to take to remedy the present state of things; but even if it were considered requisite that the Legislature of this country should take upon themselves to change the existing form and constitution of the Upper Chamber in Canada, we should not be acting without a precedent, or doing in favour of Canada, and in behalf of the popular body in that country, that which we have never done in other of the colonies of the Crown. In the constitution granted to the Cape of Good Hope last year, the Upper Chamber in that Colony was made an elective one. It is unnecessary to go into any details as to the mode of election or the privileges attaching to that body; suffice it to say, that both Houses in the Cape of Good Hope are elective. With regard to Australia, by an Act passed a few years ago, for introducing a new form of constitution in the various Australian Colonies, power was given to each to reform its own constitution, and under that provision ordinances have been sent home—some of them having been received within the last few days—undoubtedly proposing different forms of constitution, but some of them choosing the elective form for the Upper Chamber. About the close of the last Session of Parliament, or shortly afterwards, I received a memorial from the Legislative Assembly of Canada—by no means the first memorial which has been addressed to the Colonial Office on the subject—praying that measures should be taken for effecting this long-desired alteration, and bringing the Legislative Council of Canada into a better state of accordance with the public feeling in the Colony as regards its constitution. Subsequently to the receipt of that memo-

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rial—about the close of the last year, or the beginning of the present—I received a further communication from Canada, suggesting the form of a Bill by which the Legislative Council could be changed from a nominative to an elective body, and embracing all the details which those persons in Canada who had looked into the subject considered necessary for carrying that object into effect. After receiving this draft of a Bill, which I was urged to introduce into the House of Lords, or to get some other Member of the Government to introduce into the House of Commons, for the purpose of effecting the desired change by means of the Imperial Legislature, agreeing, as I do, in the object desired to be effected, I felt that it was necessary to consider how the object could best be carried out. Three modes of doing so presented themselves to my mind. The first was, to adopt the draft measure which had been sent over to me from Canada, by which course the House of Lords and the House of Commons of England would have settled the question for Canada; the second was, to invite the Parliament of Canada to send home a Bill prepared and passed by themselves, which would have required an Act of Parliament in this country to confirm it; and the third was, to repeal those portions of the Union Act of Canada which at the present moment prevent the Colonial Legislature from making the desired alteration itself. Perhaps I ought previously to have stated to your Lordships that by certain clauses in the Union Act of Canada the Legislative Council is constituted in the nominative form, and the Colonial Parliament has no power to effect the proposed alteration, even with the approval of the Crown. Certain other restrictions are put upon the Canadian Legislature, one of which, I am glad to say, was removed last year by an Act, which I was fortunate enough to induce your Lordships to pass, for placing the clergy reserves under the control of the Colonial Parliament. As regards the first of these modes—that of adopting the draft Bill sent over to me from Canada—I undoubtedly felt that it would have this advantage—that it would settle at once a question which had for some time been one of discussion and dispute in Canada, and would obviate the possibility—I hope I should not say the probability—of a difference of views between the existing Houses of Legislature in Canada, which might perhaps

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last for some years; but whilst I saw that, I likewise felt that this plan would also have this great disadvantage—that of being at variance with those principles of colonial government which I have long advocated, and which I endeavoured, I humbly hope, to carry out during the time I held the seals of the Colonial Office. I felt, I say, that to legislate in this form would be at variance with those principles which I believe to be the only sound principles of colonial legislation, and at variance with the views and intentions of that enactment which your Lordships passed last year with reference to the clergy reserves. My opinion is, that in this and all similar matters, it is desirable that the Colonial Legislature should itself be allowed to decide—and therefore I discarded this first mode of effecting the object in view. As regards the second mode—that of enabling the Legislature of Canada itself to pass a Bill which would subsequently have required an Act of the Imperial Parliament to confirm it—I felt that the principles to which I have referred would be violated, although to a lesser degree, by that mode, whilst, at the same time, it would not have accomplished the good that might reasonably have been expected from the first, namely, that of settling the question at once and for ever, and of obviating discussions that might arise between the two Houses of the Legislature in Canada. The third mode, the one which I have adopted, is this—I propose to repeal those clauses in the Union Act of Canada which prevent the Colonial Legislature from reforming its own constitution, to refer to it the question of changing the Legislative Council from a nominative to an elective body, and to leave it either to effect the proposed alteration or to pass such other measures as it may think fit, subject, of course, to confirmation by the Crown—or to leave the matter as it stands. I propose, in short, to remove those hindrances to the free action of the Colonial Legislature which at present exist. That is the sole object of the present Bill, to which I now ask your Lordships to give a second reading, with the exception of the last clause but one, which refers to a subject that was brought under discussion by the noble Lord the Chairman of Committees when the Clergy Reserves Bill was before the House last year. The noble Lord at that time suggested that it was exceedingly unfair that while we removed, as re-

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garded the clergy reserves, the necessity for ordinances passed by the Legislature of Canada being laid on the table of this House forty days before they were confirmed by the Crown, we should retain that restriction with respect to all other subjects of a cognate character. I stated on that occasion that I entirely concurred in that view, and that in all probability it would be my duty before long to introduce a measure—referring to the present Bill—in which I should certainly propose to remove that restriction altogether. I apprehend it is a restriction without much meaning, without any utility, and with considerable inconvenience. So inconvenient is it that it is exceedingly questionable what are the Bills which come to the Colonial Office which require to be laid on our table forty days before they receive the confirmation of the Crown; and I believe it has more than once occurred, since that restriction was imposed, that measures have inadvertently received the confirmation of the Crown without having been so laid upon our table. The result is, that any litigious person who chooses to raise a question as to the validity of those Acts—many of them involving questions of private rights, and affecting land and religion—may at any moment create immense excitement in the Colony, and cause very great personal inconvenience and loss. Seeing, then, that we have in the case of the clergy reserves removed this restriction, and believing that it would be highly expedient and advisable to follow the same course in the case of such questions as those now under discussion—and indeed as regards questions of any other description—I propose, by the 6th clause of this Bill, to do away with the necessity of ordinances passed by the Colonial Legislature being laid in future upon the table of this House forty days before they are confirmed by the Crown; in short, I propose to assimilate the ordinances from Canada in this respect to the ordinances received from various other dependencies of the Crown; and I propose likewise, by the wording at the end of the clause, to render valid such measures as may have been passed and have received the confirmation of the Crown, without having fulfilled the obligations which they ought to have fulfilled, of being laid upon our table. I do not wish to trespass upon your Lordships' time further than I have already done; and I will conclude by asking your Lordships to give a second read-

ing to this Bill, believing it is in entire accordance with the soundest principles of colonial legislation, and that it is calculated to remedy what I must call a great and practical grievance.

*Moved*, That the Bill be now read 2<sup>a</sup>.

THE EARL OF DESART regretted that his noble Friend (the Earl of Derby) was not in the House upon the present occasion. The noble Earl, who had himself held the seals of the Colonial Office, took a warm interest in the affairs of Canada; and it was highly desirable that the noble Duke should postpone the second reading of the Bill till such time as the noble Earl should have an opportunity of discussing it. Besides, it was of the utmost importance that their Lordships should be put in possession of the copies of the draft Bill sent home from Canada, in order that they might see how the colonists themselves propose to carry out the desired change of making the Legislative Council elective. In 1850, a similar proposition was made by the Legislative Assembly of New Brunswick. The reply of Earl Grey, who was then Colonial Secretary, was that, although he saw no *primâ facie* objection to the proposed alteration, yet he could not pledge himself to sanction any such scheme until he ascertained what the provisions of the Bill would be, because he entertained the most decided objections to making the Legislative Council a mere counterpart of the Legislative Assembly. Such was the view of Earl Grey; and for his own part, it appeared to him that there was considerable danger in giving to the Legislative Assembly of Canada power to make whatever regulations it pleased for the election of the Legislative Council. He confessed he had strong doubts as to the expediency of giving an elective Legislative Council at all, excited as they knew those colonial bodies were by strong party feelings and dissensions. He ventured to ask the noble Duke to postpone the Motion for the second reading, in order that the noble Earl, who was now absent, might have an opportunity of expressing his feelings in respect to the proposition.

LORD WHARNCLIFFE said, that the Bill was one of considerable importance, and he should like to be informed whether it was the Bill of the noble Duke, or whether it had been recommended by the Governor General when he was in this country a short time since, or was the result of a correspondence between the Colonial Office and the local authorities. If any

such correspondence had taken place, he hoped it would be laid before the House. He thought it was better to allow the inhabitants of a colony to deal as they pleased with grievances of which they complained, as most of them related to matters upon which it was impossible that the Parliament of this country should be as competent to form an opinion as the local Legislatures; but he was afraid that this measure would lead to results which the House would not willingly contemplate, and he was of opinion that extensive legislative changes ought not to be made in the government of a colony without the sanction of the Crown and of the Imperial Parliament.

THE EARL OF ELLENBOROUGH said, he did not rise to oppose the second reading of the Bill, but to express his opinion on a matter of much greater importance. We had in the course of the last few years made such progress in the work of concession to Canada, that the question now was, not whether we should stop in our career—not whether we should attempt to go forward or to go back—but whether we should not, in the most friendly spirit towards Canada and the other Colonies of North America, consult with the Legislature of those provinces on the expediency of taking measures for the complete release of those colonies from all dependence on the Crown and the Parliament of Great Britain. He recollected, in 1828, during the time that Mr. Huskisson held the seals of the Colonial Office, having a conversation with him, in which that Gentleman intimated most distinctly that he thought the time had already arrived for a separation between Canada and this country; and Mr. Huskisson had even so thoroughly considered the matter that he mentioned to him (the Earl of Ellenborough) the form of government which he thought it was for our interests to leave to Canada when our connection with the Colony should cease. It must be borne in mind that during the last few years a complete change had taken place in our relations with the North American Colonies. In 1846 we repealed the Corn Laws, without any provision for reserving and retaining for the benefit of the North American provinces those advantages in the duty levied on the export of corn from those provinces to this country, which were highly valued. At a subsequent period we repealed the Navigation Laws, which had entailed great inconvenience and loss on them, and which was considered as con-

ferring on us great advantages in matters of trade and navigation. We had, further, altered to a great degree—if we had not entirely abolished—the duties—formerly to a great extent discriminative duties—on the article of timber, which was the staple produce of the North American Colonies. Thus we had deprived ourselves and the North American Colonies of the advantages which each formerly derived from the connection subsisting between them. But, more than that, we had for several years, in dealing with the Legislative Assemblies of the Colonies, acted on a principle diametrically opposed to that which had been formerly recognised. We had established what was called responsible government, or, to speak more intelligibly, we had given them practically an independent government; and he could really hardly imagine a situation more inconvenient than that of the representative of Her Majesty in Canada. He almost wondered that any British gentleman would consent to hold such a situation of nullity, unless, indeed, he had full confidence in his own abilities and resources, and was able to make himself what Lord Metcalfe was, practically the Minister of the Colony. What, he would ask, were the practical advantages of continuing our connection with Canada? There might be some advantages in it to the Colony in times of peace; but, on the other hand, let their Lordships consider the great dangers to us and to them arising from that connection in matters relating to war. There could be no doubt whatever that the chances of a collision between this country and the United States were greatly increased by our connection with the North American Colonies. On the other hand, there could be no doubt, in the event of a war taking place between this country and the United States, on grounds totally unconnected with Canada, that Canada and the other North American provinces would of necessity, from their connection with us, be drawn into the war, and be exposed, from the extent of their frontier, to the greatest calamities. Under these circumstances it appeared to him a matter worthy of the most serious consideration whether we should not endeavour, in the most friendly spirit, to divest ourselves of a connection equally onerous to us and to them. He would ask his noble Friend (the Duke of Newcastle) what hope he could have of a successful defence of Canada in the event of a war? He would recommend the right hon. Gentleman who

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had succeeded to the Colonial Office to read a despatch, which he (the Earl of Ellenborough) had now in his recollection, and which was received from the late Lord Metcalfe in 1846. We were then, it was supposed, on the eve of a war with the United States—a war connected with a matter with which Canada had no concern—a war of which the danger suddenly arose from an object the value of which would not equal the expense of one week of hostilities. He would recommend the Colonial Secretary to consider what Lord Metcalfe said, as to the amount of military expenditure which would be necessary for successfully defending Canada. He (the Earl of Ellenborough) thought that that estimate was extravagant at that time. He did not attach any very great weight to any unsupported opinion of Lord Metcalfe on that subject; but Lord Metcalfe was an able man, he had been for a considerable period in Canada, and it was to be presumed that he would not have given an opinion upon that subject without conferring with persons of military knowledge and experience. If what Lord Metcalfe said on that occasion was correct, it was perfectly beyond the means of this country to afford the necessary amount of military aid by which that country could be successfully defended. It might be said that we did successfully defend Canada in 1814, and no doubt Canada had made very great progress, and that we also had made very great progress, in wealth since that time. That he admitted; but he wished he could add we had made great progress in military strength. But considering, on the other hand, the enormous progress made by the United States in their innumerable railroads—considering their great advance in military resources—considering that they had now a well-disciplined army, as contrasted with the army with which they fought the war of '14, which was a mere rabble—considering all the increased means and appliances now at their disposal, he could not conceive it possible that any defence of Canada could be conducted with success. He would not say that success in war was at any time impossible, for there was nothing that might not be achieved by genius and by courage well directed and sustained; but were we sure that there would be that union of sentiment which could alone carry us through the contest; and, if we had that assurance, where could we find the military genius by which that sentiment could be directed? The argu-

ment that he had always heard against severing our connection with Canada was, that we should not depart from our rightful position as the head of a great colonial system, and that we could not give up that connection without disparaging ourselves in the eyes of the world. But this he knew, that of all things which would most disparage and injure us, would be a failure in an attempt to defend Canada, by which we should not only lose Canada, but also the army with which we attempted to defend it. Bearing in mind, then, the opinion of Mr. Huskisson—bearing in mind what was considered necessary by Lord Metcalfe in 1846—looking also at the gigantic progress of the United States, its extending strength, and our means on the other hand, he confessed he deprecated the continuance of a connection which might make a war a possibility. And let their Lordships reflect that a war with the United States would be one of the greatest evils that could befall us, for it would be more like the tearing asunder the members of one human being than a collision between two separate bodies, connected as we are with them by all the details of commerce. But while he said that, he could not conceive that a war was an impossibility. Our brethren on the other side of the Atlantic were very ambitious; they were also very sensitive on a point of honour; so were we; they were equally sensitive to the perpetration of injustice; so were we; and not only could they not tolerate injustice done to themselves, but they could not bear to see it done to others. Under these circumstances he thought that at a very early period Her Majesty's Government should endeavour to communicate with the leading persons in the Legislative Councils of all the different colonies of North America, with the view of ascertaining their opinions on this subject. Everything should be done in reference to it without compulsion, and in the most friendly spirit. We should consult with the North American provinces as we should with the members of our own families, in whose interest and welfare we took the deepest concern; but he really thought at an early period there should be on both sides a frank interchange of sentiment and opinion on the subject; and he could only say that it would be to him a matter of satisfaction if the result should be to relieve us from a possible danger, which he could not contemplate without the greatest apprehension.

THE DUKE OF NEWCASTLE said, with

reference to the observations which had just fallen from his noble Friend, he felt bound to express not only his deep regret, but his astonishment, looking at the noble Earl's position as a legislator and statesman, at the doctrines which he had propounded—doctrines which he could assure his noble Friend on his own knowledge, were at least as unpalatable in Canada as they could be to their Lordships who had listened to them. The noble Earl had suggested that the Government should take into their early consideration whether or not they should concert such measures as they might think desirable for severing the union subsisting between the Colonies and the mother country. His noble Friend did not make that suggestion to him whilst he was at the head of the Colonial Office; but he (the Duke of Newcastle) could assure the noble Earl that he would never belong to any Government which would make any such proposal to the people of Canada. For his own part, he should look upon such a proposal as an offence against the dignity, and he might almost say the Sovereignty, of the country, and hostile to the most important interests of the Colonies. His noble Friend said, he did not think it was a question now whether we should pause in the progress of our legislation for the North American Colonies, nor whether we should go backward, but whether we should not propose a separation. What reasons had the noble Earl assigned for the course he recommended? The noble Earl had alluded to recent Acts of the Legislature of this country, and when he did so a noble Earl opposite (the Earl of Malmesbury) cheered. He (the Duke of Newcastle) said, without fear of contradiction, that all our legislation on the subject of trade had only induced the people of Canada to prize more highly the connection with England. He contended that that legislation had rendered our connection with them more important than ever. Had not the wealth and importance of Canada, under the new system of commercial intercourse, increased to an extent with which no other colony in the world could compare? He doubted whether the progress of the Australian Colonies, great as that had been, could be compared with the progress which had taken place within the last few years, and was now going on, in that part of the British empire. Not merely in wealth, but in almost every other element by which the interests of nations were estimated, had Canada made the most

rapid progress; and was this the moment to propose to them a separation from this country—to sever a connection which he had no hesitation in saying had long been endeared to the people of Canada, and which was now more dear to them than ever? His noble Friend had adverted to an opinion expressed on this subject by Mr. Huskisson in 1828, in which that statesman said that the time had come for effecting a separation between this country and the North American Colonies. He (the Duke of Newcastle) had the greatest possible respect for the opinions of Mr. Huskisson; but, he would ask, what were the circumstances of Canada in 1828? He was not surprised that Mr. Huskisson in 1828 should have considered such a possibility, and that he, with true prescience, should have looked forward as to what should take place in the event of a separation. A state of things was then prevailing in the Colony which six or seven years afterwards led to the rebellion which cost so much blood and treasure. But a most material change had taken place since that time, and in consequence of that change he thought that, if Mr. Huskisson were alive at this moment, that statesman would not now be attempting a new form of independent government for Canada, but would be the first to concur in the measure which he (the Duke of Newcastle) was now proposing to their Lordships. His noble Friend said we had established responsible government in Canada, and that, in consequence of that change, Canada was as good as separated from this country, and the representative of the Sovereign was placed in a humiliating position, and was, in fact, reduced to a nullity. What did his noble Friend mean? Would he compare the Sovereign of this great country with the Emperor of Russia, and say that because the British Sovereign did not exercise arbitrary power over the country, her sway was a nullity? Undoubtedly he might, if he compared the more abstract form and outward semblance of power, such as was formerly exercised by the Government in the Colony, with the power of the Colonial Government as it was now carried on under the blessings of the representative principle, describe the Government of Canada as a nullity; but unless his noble Friend was prepared to say that a constitutional Sovereign of a free country could not exercise authority over that country, because the Sovereign was not possessed of arbitrary power, he (the Duke of New-

*The Duke of Newcastle*

castle) would contend that the representative of the British Sovereign in Canada was not only not a nullity, but that he now actually occupied in the affections of the people a position far stronger, and therefore far more distinguished and exalted, than any Governor of a Colony ever did before. Such he knew were the sentiments of Lord Elgin, who occupied the high position of Governor of Canada at this time, and who had contributed, by his admirable government, very materially to the state of feeling which now existed in that Colony. The noble Earl had said that Canada was of small advantage to us in time of peace, and then asked, what safe defence could we propose for it in time of war, and he had referred to what Lord Metcalfe had said some years ago as to the necessity of maintaining a large army to retain Canada in our possession. So he understood his noble Friend. Now, as far as he (the Duke of Newcastle) was concerned, whatever might have been deemed expedient in the time of the government of Lord Metcalfe, he would with the greatest fearlessness declare that no such necessity existed at the present day, and that he had the most entire confidence in the loyalty of the people of Canada. No doubt Lord Metcalfe did express the opinion which his noble Friend had ascribed to him, but he did so under very different circumstances from those which now existed. If the Canadians should make a demand for assistance against foreign enemies, we were bound to provide it; but he would tell the noble Earl that the best and safest defence of Canada would be found in the loyalty and good feeling of its people. And he declared that, just as if this country were to be invaded at the present moment, when our armies were making war on another soil, he should have no fear for the result, because the loyalty of the people would defend our shores, so he should have no fear for the result if any nation should invade Canada. He deprecated, however, such discussions as this. The noble Earl said, in the course of his observations, that the colonists were very sensitive. They were sensitive; and it was upon that very account that he regretted extremely that a man of such eminence should have broached such a subject. He thought his noble Friend's words would sting many a heart in Canada, whose inhabitants would hear with the greatest possible regret that even one Peer should be found in that House to get up and advocate not only the possibility

but even the policy of separation from the mother country. The proper course to pursue was, to legislate no more for the Colonies than we could possibly help; indeed, he believed that the only legislation now required for the Colonies consisted in undoing the bad legislation of former years. It was for that purpose he had introduced the Bill now under the consideration of their Lordships; and if they were resolute to continue the policy now for some years past adopted, he was convinced that, not only as regarded Canada and the other distant—he would not call them dependencies of the empire—but the integral portions of the empire; far distant, indeed, would be the day when the Legislature would be called upon to entertain any such proposition as that suggested by his noble Friend. He knew that his noble Friend's words would sink deep into the heart of many a Canadian, and sting him with deep regret. He spoke with the greatest confidence on this subject, because he had within a very short period had large opportunities of intercourse with men connected with that Colony, and he knew that, belong to what party they might, one of the last things they desired was that which his noble Friend had so strongly advocated.

THE EARL OF MALMESBURY said, he regretted that the present subject should have been brought forward on a day which Members of their Lordships' House were in the habit of dedicating to another object. The noble Duke had alluded to a cheer which had come from him (the Earl of Malmesbury) during the speech of his noble Friend (the Earl of Ellenborough). Now, if he cheered at all, it was merely to express his assent to what his noble Friend had said in reference to the sort of free-trade principle which had been applied to Canada. He had in his mind at the moment the effect which that principle had had upon the interests of that Colony. The difference which the introduction of free trade produced upon Canada was this, that, whereas before free trade was established this country favoured Canada in its commercial communications with that Colony, after the free-trade principle was established that favour had been withdrawn; and it occurred to his mind that the people of Canada could not look upon this country in the same light now as they did before. Their Lordships were aware that we had not met with that reciprocity from the United States by which our North American Colonies would have

been benefitted, and which it was hoped would have resulted from the measures which were adopted by this country. When those measures were originally passed they were told that there was every reason to believe that a treaty would be very speedily settled between this country and the United States on free-trade principles, which would be advantageous to our North American Colonies. He should be glad to know how far Her Majesty's Government had advanced with that negotiation, which had now been pending for the last four or five years? That was the subject he had in his mind when he cheered his noble Friend. If the noble Duke thought that he had intended to express any regret at the passing of those great measures, which had been so fully discussed in both Houses of Parliament, and which were adopted with the approbation of so large a majority of the nation, he very much mistook the opinion he entertained on that subject.

LORD BROUGHAM said, he entirely approved of the measure introduced by the noble Duke, and he hoped and trusted that the same sound views would continue to prevail in the Administration of the Colonies which had influenced Her Majesty's Government in preparing this measure. There was one point on which he would venture most humbly and respectfully to tender his advice to the people of Canada. He was induced to do so by the kind confidence he had experienced from them some fifteen or sixteen years ago when he appeared in that House as their advocate against certain measures of the then Government of this country. He had then long conferences with people from Canada upon those differences, which at that time most unhappily prevailed, and he had constant and intimate communications with the leading men connected with the Legislative Councils. It was in consequence of that circumstance that he now ventured to give them his counsel upon the subject of the constitution of a second Chamber. The most important object to be attained in the constitution of a second Chamber was, that it should be as different as it was possible to make it in its constitution, in its mode of appointment, and in its duration, in order that it might be anything rather than a duplicate of the other assembly. That was the great principle which ought to govern the colonists in forming a second Chamber. It was not meant that a second assembly should be constituted merely to register the edicts of the first, but to ex-

amine, to discuss and amend that which had been done by the first. It would not do if the second assembly was of a similar nature to that of the first, or if it derived its origin from the same constituent body. What would be the consequence if the two bodies did not most materially differ in their constitution, in their origin, and in all the circumstances connected with them? It would only amount to this—that of adding so many stages to each legislative measure which the first assembly might pass. There would be no check to, effectual control over, or security against, the acts of the first. But if the origin of the second assembly were totally different from that of the first, or, as he should greatly prefer, if the second Chamber were not elective at all, but were nominated under certain restrictions and with certain exceptions by the Executive Government out of a list to be chosen by persons exercising the elective franchise, then there would be some chance of an effectual control over the acts of the first. If he were called upon to give an instance of the necessity of a second Chamber, essentially different in its constitution from the first, where should he look but to the assembly he had then the honour of addressing? He had known Bills come up from the House of Commons which had contained such oversights and such gross errors which his respect for Parliaments which had ceased to exist twenty years since, would not allow him to characterise in adequate terms. He remembered that in the year 1834 a Bill, which had passed with little or no observation and almost as a matter of course in the House of Commons, came up to their Lordships, which their Lordships might have passed had they resembled in their constitution the first Chamber. And what would have been the consequence? Why, the whole criminal justice of the kingdom in quarter sessions would have been suspended from and after the 1st of October then next ensuing. When their Lordships sent back the Bill, cutting out that provision of it, it was a very excellent Bill in all respects; yet when it was sent back thus amended, the House of Commons was so offended at what they had taken the liberty to do, that they threw it out altogether, and the country lost the benefit of all that was valuable in the measure for twelve months. He wished to add a word on another point, but he did so with very great diffidence after the severe rebuke administered by the noble Duke opposite

*Lord Brougham*

to his noble Friend near him, as he had the misfortune of falling within the description of persons against whom the noble Duke had declaimed so eloquently, as wishing to separate from, though not to throw over or abandon, the Colonies. He could not help thinking, on the whole, that it would be better that an understanding should be come to, so that the subject of separation might be discussed calmly and amicably between the mother country and its American dependencies; and at the period to which he had alluded, when he was in the closest communication with persons who had the best means of knowing the feelings of their fellow colonists on the question, he certainly had not observed any such deep-rooted antipathy to the proposition as the noble Duke supposed to exist. He knew that this opinion was shared by two men of the highest authority on colonial questions—the late Lord Ashburton, who never made any secret of the views he entertained, and the late Lord St. Vincent; and those who held the doctrine of separation did so, not because they were disposed to undervalue the importance of colonies, but rather because they highly estimated the importance of such colonies. They believed that after a certain period of time—after what was called “passing the youth of nations,” the best thing that could happen to the connection of a colony with the parent State was its *euthanasia*—a separation without any quarrel, without any coldness even, but with perfect amity and good-will, so that the relations prevailing between two independent States might be substituted for those which had prevailed between the mother-country and its dependency.

THE EARL OF HARROWBY could not see what advantage would accrue to the people of Canada if that colony were to be separated from this country, and to be erected into what the noble Earl had called an independent State. They at the present moment enjoyed all the benefits of actual independence, possessing complete control over their whole internal administration; while, by their connection with this country, they had the bulwark of the British name, and necessarily of British power. He did not believe that the idea of separation was at all entertained by the Canadian people; but if it even were, no measure was more likely to remove it from their minds than such a one as the present; and any step in an opposite direction—any attempt to govern, in a free country,

through the instrumentality of mere nominees of the Government, could produce no other effect than irritation. He only hoped that in the construction of the second Chamber the Canadians would follow the recommendation of the noble and learned Lord (Lord Brougham), and consider well the importance of not making it a mere shadow of the first, and of securing as much as possible representatives in it of a different class of mind and feeling. He looked upon this measure as one of the greatest importance, being of opinion that the only valuable second House of legislation in a colony was one composed of a wisely and justly elected body, and that the mere creatures of the Government could never enjoy that consideration which alone could give value to a second Chamber. The noble Earl, in conclusion, inquired whether, by the wording of the first clause, the local Legislature would be able to give to the Upper House an existence, if they so desired, independent of a dissolution?

THE DUKE OF NEWCASTLE observed, that there was nothing in the Bill which would prevent the local Legislature from constituting such a Legislative Council as it pleased. The only reason for the introduction of words empowering the local Legislature to give power to the Government to dissolve one House without the dissolving the other, was a legal opinion given to him that, without the insertion of such words, the local Legislature would not have that power. It would be perfectly competent for the colonists to constitute an Upper House of Members holding their seats for life or for any term of years.

On Question, *Resolved* in the *Affirmative*; Bill read 2<sup>a</sup> accordingly, and committed to a Committee of the whole House.

#### THE BISHOPRIC OF SYDNEY—QUESTION.

LORD REDESDALE then rose to ask the noble Duke the late Secretary of State for the Colonies what was the cause of the delay which had taken place in appointing a successor to the late Bishop of Sydney, who died in England on the 20th of February, 1853. He had asked the noble Duke a similar question in July last; and he then stated that the delay arose from its being then under consideration of the Government whether the bishopric should be erected into the archbishopric of Sydney. He believed that some further delay had since occurred in consequence of the appointment having been offered to, but

declined by, the Bishop of New Zealand. Under these circumstances the delay which had taken place might not have been altogether unnecessary, but still it was matter of great regret that the see should have been left for eighteen months without episcopal superintendence, and he trusted that the noble Duke would be able to assure their Lordships that steps were now being taken to fill up the appointment. He wished also to know what would become of the revenues of the see during the period for which it had been vacant.

THE DUKE OF NEWCASTLE could assure the House that no one regretted more than himself the delay which had taken place in filling up this see; more especially on account of the causes which had of late occasioned it. He thought the noble Lord had done good service in drawing attention to this subject, because, for reasons which he would state, he feared that the circumstances which had caused this long delay were not unlikely to occur again, and it therefore behoved the Church to consider whether means might not be taken to obviate the inconveniences that might otherwise arise. The first cause which led to the delay in the appointment of a successor to the late Bishop of Sydney was a representation which the Government received from the Archbishop of Canterbury and others of the bench of Bishops here, of the expediency of erecting the bishopric of Sydney into an archbishopric. To that representation the Government, after carefully considering the subject, decided that it was not expedient at that moment to accede. As soon as that determination was arrived at he (the Duke of Newcastle), with the concurrence of the Archbishop of Canterbury, and others of the episcopal bench, offered the appointment to a rev. gentleman, an archdeacon, resident in this country, who was well qualified for the office. That rev. gentleman, however, declined to accept the appointment. Subsequently, after some further unavoidable delays which took place with reference to the proposed appointment of other parties, he again received a proposition to recommend to Her Majesty the translation of the Bishop of New Zealand to the vacant see. That course, indeed, had been suggested to him very soon after the death of the late Bishop, but he objected to it on more than one ground—certainly, however, upon no ground personal to the Bishop of New Zealand, for he was of all men living the fittest to occupy the vacant see—but prin-

cipally because he believed it objectionable to translate a bishop without his knowledge and possibly against his consent. He, therefore, in the first instance declined to appoint the Bishop of New Zealand. When, however, after receiving the refusals to which he had referred, he was again pressed by Bishops of the Church and others, in greater numbers than before, to appoint the Bishop of New Zealand; when he received intelligence that the people of Sydney itself especially desired his appointment, and that they were then in hopes that it had already gone out and was approaching their shores; and when, moreover, he heard that even the people of New Zealand thought that, as part of the metropolitan see, they would derive more advantage from their Bishop being placed at its head than they could do from his remaining in his present position; under these circumstances, he at length, though with some hesitation, thought that Bishop Selwyn should be promoted to the metropolitan see, and that a clergyman long resident in New Zealand, and well acquainted with the colonists and with their feelings, should be appointed Bishop of New Zealand. Her Majesty at once acceded to this recommendation, and he did not lose twenty-four hours in sending out to the Colony to announce the appointment of Bishop Selwyn. Within, however, a fortnight after that announcement had left these shores, information was received here that the Bishop of New Zealand had left the Colony for England, on matters connected with his diocese. The communication of his appointment consequently never reached him, and he was not made aware of the circumstance until after his arrival in this country. He reached England in the first week of May; and within a few days afterwards he (the Duke of Newcastle) wrote to him, fully explaining all the circumstances under which it was thought desirable that he should be appointed to the metropolitan see, and urging all those considerations of a public character which were likely to lead him to forego the indulgence of all those affectionate feelings with which he was known to be actuated towards the colonists of New Zealand, and which might have the effect of inducing him to decline to leave them. Bishop Selwyn did not feel enabled to come to a conclusion upon the subject at once; and he (the Duke of Newcastle) did not receive his answer to the letter urging him to accept the appointment, which was dated

*The Duke of Newcastle*

May 10 or 11, until the 8th of the present month. He regretted to say that, acting no doubt as he believed to be for the best, but, as he (the Duke of Newcastle) and others thought, taking an erroneous view of what would be for the real interest of the Church, Bishop Selwyn then declined to accept the appointment to the metropolitan see. His noble Friend would therefore perceive, that if any error had been committed by him (the Duke of Newcastle) it must have had its origin in his endeavours to appoint to the see of Sydney the man best calculated to discharge the duties of his position in the most efficient manner. He (the Duke of Newcastle) received the reply of Bishop Selwyn only three days before he actually surrendered the seals of office as Colonial Secretary to Her Majesty, and when the arrangements by which he quitted that department were fully completed. Under these circumstances it was quite impossible that he could himself take any further measures to remedy what he believed to be a great misfortune—the vacancy of this important see. He had already said, however, that he thought it was not unlikely that similar events would again occur, and he did so for this reason—up to a very recent period it had been the invariable practice, on any vacancy occurring in a colonial bishopric, to send out a clergyman from this country, because there were not in the Colonies clergymen of a class eligible for appointment as bishops. But in the course of the last few years a very material change had taken place. The number of the clergy in the Colonies had increased to an immense extent, and there were now in many Colonies, and particularly in New Zealand, men who were as well calculated to discharge the functions of bishops as any in this country. Under these circumstances—following out the principles which, during the brief period he had presided over the Colonial Office, he had applied in civil appointments—that they should be given to persons resident in the Colony if they were fit to undertake their duties—he certainly anticipated that Colonial Secretaries would frequently think it their duty to recommend to her Majesty the appointment of clergymen resident in Colonies. There was this inconvenience attendant upon the great advantage which would otherwise result from this course—that it would be necessary to obtain the consent of those reverend gentlemen to their appointments, and that when they were resident in dis-

tant colonies, delays of the kind such as had now taken place, might not be of unfrequent occurrence. With regard to his noble Friend's question with respect to the revenues of the see, he should not have been prepared to say what would have become of them during its vacancy if they were supplied by endowment; as, however, the greater part of the revenues of this see were voted by the Colony itself, the decision of this question would, of course, rest with the Colonial Legislature.

LORD REDESDALE remarked, that he entirely acquitted the Government of any blame on account of the delay which had occurred with reference to this appointment.

House adjourned till To-morrow.

## HOUSE OF COMMONS,

Thursday, June 15, 1854.

MINUTES.] *New Member Sworn.*—For London, Right Hon. Lord John Russell.  
PUBLIC BILLS.—1<sup>o</sup> Warwick Assizes; Vice-Admiralty Court (Mauritius).

### UNIVERSITY OF OXFORD BILL.

Order for Committee read.

The House went into Committee on this Bill, commencing with the clauses *de novo*.  
Clause 1 agreed to.

Clause 2 (Duration of the powers of the Commissioners).

MR. EVELYN DENISON said, the noble Lord, on a former occasion, promised to give the House some information with reference to the Commissioners named in the Act. It would be recollected that the hon. Member for Stroud (Mr. Horsman) proposed that the names of the Commissioners should be postponed till the extent of the powers to be given to them should be agreed upon; but on that occasion the noble Lord urged, and urged successfully, that it was most important that the names of the Commissioners should be made known to the House before their powers were defined. He (Mr. Denison) then concurred with the noble Lord, and voted with him for the names of the Commissioners as proposed in the Bill; but since that time a very great and important change had been made in the Bill. Instead of being an enacting, it had become in a manner a permissive Bill, and the whole stress and power of the measure now turned on the names of the Commissioners—on those persons who should have the power of carrying into effect the changes

that had been made. It seemed to him that the whole force of the Bill rested on two clauses; and that the whole question was—first, who were to be the Commissioners; and next, whether the clause which enabled the colleges to withhold their concurrence on the recommendation of the Commissioners should be supported or not? He asked the Committee, therefore, whether the importance of the Commissioners had not been immeasurably increased by the change that had taken place in the structure of the Bill. The noble Lord the other evening announced that, on account of the increased power given to the Commissioners, some addition was to be made to their number; and, taking that statement of the noble Lord in conjunction with his other statement as to the importance and necessity of having the names of the Commissioners in the Bill before their powers were granted, he certainly asked with some confidence that, before they proceeded to consider the Bill in its new shape, the names of the Commissioners, who were to have the power of carrying it into execution, should be made known to the House.

LORD JOHN RUSSELL said, that having stated it was their intention to increase the number of Commissioners, he had proceeded immediately to invite two persons whom the Government thought qualified, to allow themselves to be named as Commissioners. With respect to one of these persons, he had not yet received a final answer on the subject, and, therefore, he was not at liberty to propose his name as one of the Commissioners to the House. He did not think it was necessary, however, that the names should be in their hands before the report. With regard to what his hon. Friend had stated, as to the Bill being entirely permissive, the Committee must be aware that there were various clauses, such as the substitution of the Hebdomadal Council for the Hebdomadal Board, the erection of new halls, and other parts of the Bill, which were not of that character. As to the names of the Commissioners, it did not seem necessary that they should be given in the meantime.

Mr. HENLEY said, in the previous discussions upon this Bill, one of the representatives of the University of Oxford had admitted that the main reason for assenting to its principal provisions, was the confidence which he felt in the names of the gentlemen who were to be appointed as Commissioners. It was then stated by the

Government that the Commission would consist of five persons, who were named; but the noble Lord had now intimated his intention to add two to that number. And there was no security that, after another night or two's debate, the Government might not propose the addition of two or three more. There was, in fact, nothing in the Bill to prevent the Government from adding any number to the Commission that it thought fit. The third clause gave power to Her Majesty to fill up any vacancy occasioned by death, resignation, or incapacity to act; now that, certainly, did not preclude it from adding any number it pleased to the body of the Commissioners. No reason whatever had been assigned for increasing the number from five to seven; nor had it been shown to the Committee that five were not fully competent to do all that seven could do, supposing all to act. But it was quite possible that some might not see fit to act, and that other members of entirely different principles might be appointed in their stead; and thus—and particularly if the number were to be increased without limit—a very different body might eventually come to exercise these powers—powers which were not only new, but of a very questionable character—from that which the Legislature had contemplated at the time of passing the Bill. He wished to ask whether seven was to be considered as a definite number?

THE CHANCELLOR OF THE EXCHEQUER said, the intention of the Legislature was, not only that the number of the Commissioners should be definite, but that their names should be approved by Parliament; and he thought that this was sufficiently provided for by the first clause, in which the Commissioners were named, and by the third, which limited the power of the Crown, with reference to future appointments, to cases where vacancies occurred from death, resignation, or incapacity. The suggestion that the Government might insert a number of names in the Bill of persons who might afterwards decline to act was sufficiently answered by the fact that his noble Friend (Lord J. Russell), proposing to increase the number of the Commissioners by two, had refrained from mentioning their names, because he had not yet received a final reply from one of them. And he thought that the Government would be guilty of very great impropriety if they ventured to propose the names of any persons as Commissioners whose willingness to accept the responsi-

*Mr. Henley*

lity and discharge the duties of the office they had not first fully ascertained. He was prepared to admit that this clause was a peculiar one, and bore upon the whole Bill, but perhaps the Committee would excuse him if he ventured to point out, before he resumed his seat, that it was thoroughly understood by the Government, and understood, he believed by the whole House, that those clauses which had already been gone through in Committee were not again to be debated.

Mr. WALPOLE said, he would admit this understanding, and at the same time would beg to express his great gratification at many of the amendments which had been introduced into the Bill. It had now assumed much more of that enabling character which he had wished it to do at the first; and although there were some few alterations which he hoped his hon. Friend the Member for the University (Sir W. Heathcote) would still suggest in the clauses, he was glad to say that he now saw every prospect of the Bill passing in a good form during the present Session.

Mr. HORSMAN said, the right hon. Gentleman the Member for Midhurst (Mr. Walpole) had very good reason to congratulate himself upon the changes made in this measure since it was last before the House, inasmuch as the Government had abandoned the Bill which they had themselves introduced, and had adopted that which the right hon. Gentleman had suggested. But he did not understand how he could expect the hon. Baronet the Member for the University of Oxford (Sir W. Heathcote) to approve of those changes, because that hon. Baronet had expressed very strongly and emphatically his opinion, that an enabling Bill would be altogether delusive, and that nothing but a compulsory Bill would effect the objects for which this measure had been introduced. It was true, as the noble Lord (Lord John Russell) had said, that there were some enabling clauses in the Bill, but they applied only to the University; and the compulsory powers which had been given with respect to the colleges, in the Bill as originally brought in, had been so far altered that they were now enabling clauses merely, although the hon. Baronet opposite (Sir W. Heathcote) and the hon. and learned Gentleman the Member for Plymouth (Mr. Roundell Palmer) had declared that there must be compulsory powers, or the Bill would be of no use. It was not open to them now to discuss

these earlier clauses, and he had allowed the opportunity to pass of stating, as he had intended, his objections to the Bill as it stood. It was an entirely new Bill, involving a new principle, and an altogether different measure from that of which he had assented to the second reading. The principle enunciated by the Government, with much caution, and after great deliberation, as that which they had decided to adopt, had been abandoned, and they had now only the enabling Bill which had been suggested by the right hon. Member for Midhurst, but which that side of the House, and the principal Members of the Government on that side of the House, had declared would altogether fail of its purposes. He would defer further remarks until he came to the clauses, upon which they could be regularly made; and, with reference to the number of the Commissioners, he would only say that there was a very strong feeling on that side of the House that they ought to be limited to the number originally proposed, which was five. When, therefore, the two new names which were to be proposed came under the consideration of the Committee, an Amendment would be moved to the effect that the names of two of the original Commissioners should be omitted. It would be the same proposal which he had made originally, and upon the same ground—that they ought to have a working Commission, composed of gentlemen who would be able to devote their time and attention to the important duties that would devolve upon them. He should, therefore, propose that two of the gentlemen at present named in the Bill, who had heavy and responsible official duties to perform, should be left out of the Commission.

SIR WILLIAM HEATHCOTE said, that having been personally appealed to by the hon. Member for Stroud, he must state that he was unable to assent to his statement, that the compulsory principle had been excluded from the Bill. There certainly were compulsory powers in the Bill as it at present stood, although it was quite true that under certain circumstances they might be overridden by the subsequent action of the colleges. It was, however, one question whether a college should set itself in motion to make alterations, contrary to its own view of the obligations of an oath; and it was a very different question whether, when these alterations had been made, it should inter-

pose, by way of veto, to prevent their taking effect. If the hon. Member for Stroud would look at the paper for the day, he would find that his right hon. Friend the Member for Midhurst did not take the same view as he (Mr. Horsman) did of the present character of this Bill; for that right hon. Gentleman had given notice of several Amendments, with the view of bringing it much nearer to that which he had from the first consistently advocated—an enabling, and not a compulsory, measure. It was clear, therefore, that his right hon. Friend believed that it still contained the compulsory principle which he (Sir W. Heathcote) had supported, although the alterations which had been made had rendered it more acceptable to the University than it had been before.

MR. HORSMAN said, the Bill would enable the colleges to do what they pleased, with the consent of the Commissioners; but the Commissioners could do nothing to which the colleges might be averse. There was, undoubtedly, no compulsory power to coerce the colleges to measures of reform if they felt disinclined to adopt them.

Clause *agreed to*; as were the succeeding clauses up to and including Clause 18.

Clause 19.

MR. HENLEY said, he had understood that some provision was to be made for fixing the time which should elapse between the promulgation of a Statute by the Congregation and Convocation being called upon to vote upon it. He thought the existing state of things occasioned great inconvenience, and some alteration should be made; but it did not appear that the clause had been in any way modified.

THE CHANCELLOR OF THE EXCHEQUER said, the Government had had no power to alter a single line of any one of those clauses which had already passed through the Committee.

MR. NEWDEGATE said, the hurried manner in which the decisions of Convocation had formerly been given had been complained of, and there ought to be some provision that due notice should be given.

THE SOLICITOR GENERAL said, it would clearly be within the power of the University itself to make such a provision by Statute; and he thought hon. Members opposite would agree with him, that it would be better to allow the University to do it.

MR. NEWDEGATE said, the Bill secured an interval of seven days to Congregation, and he thought some longer interval should be secured to Convocation. If it was necessary that Parliament should provide for one, why not for the other?

LORD JOHN RUSSELL said, that the subject should be considered.

Clause *agreed to*; as were Clauses 20 to 29 inclusive.

Clause 30 (Regulating the power of the University to make Statutes).

MR. MOWBRAY said, he wished to call attention to the fact that the time fixed here for making these Statutes was "before the first day of Michaelmas term, 1855." Now, one of the things which it was proposed to do by Statute was "to aggregate all or any private halls, with the consent of the masters thereof, into one or more great halls of the University." Now it was impossible that any number of these private halls could be established before that time; or that the University could acquire, within so short a period, such experience of their working as would enable it to frame Statutes with respect to their aggregation. As this was a matter in which the University was to act for itself, and to frame its own Statutes, he would suggest that the time should be extended.

THE CHANCELLOR OF THE EXCHEQUER said, the intention of the clause was not that the University should aggregate these halls at once, but that it should have the power to frame regulations under which such "aggregations" might afterwards take place. He had no objection to insert the words "to make provision for aggregation."

MR. MOWBRAY said, this would be a great improvement, but would not meet his objection. What he submitted was, that these halls were a great experiment, and that some experience of their working would be necessary before the best mode of aggregation could be determined on.

THE CHANCELLOR OF THE EXCHEQUER said, the 38th Clause gave ample power to the University to alter any Statute which might be made on this subject, if experience should show alteration to be necessary.

MR. HEYWOOD moved the omission of the words "the instruction and," with a view of depriving the University of all power to make regulations for the instruction of students in the private halls. He was anxious to make this Bill as useful as possible, and he thought the best means of

doing that would be to leave these students in private halls perfectly at liberty to choose their own teachers, and to prepare themselves for the University examinations in the best way they could. The present system of forcing students to attend particular college tutors was most injurious, and its result was shown by the great number of failures for the degree examinations, which he believed were not less than one-third of all those that went in.

THE CHANCELLOR OF THE EXCHEQUER said, he had heard the Amendment with surprise, and he hoped the hon. Member would not persevere with it. He had thought that, whatever else a University might be, it was, at all events, a place of instruction, and ought to control the instruction given to its own members. But the hon. Gentleman proposed that persons should matriculate, and become members of the University, over whose instruction the University should have no control whatever. The colleges could regulate the studies of their own members, but these institutions could not. Still, the clause gave the University no power with respect to private halls which it did not perfectly possess with respect to colleges already; and the only reason for mentioning the private halls by name was the fact that they were created by the Bill, and it might be thought that the power with regard to them was limited, unless it were conferred in express terms.

MR. J. G. PHILLIMORE said, he would vote against the Amendment of the hon. Member for North Lancashire, which he thought likely to aggravate the evils which he had anticipated from the establishment of private halls. He had regarded these institutions as likely to make the teacher dependent on his pupil and anxious for popularity with a great number of boys, rather than the pupil dependent on the teacher, and anxious for his good opinion. He thought the Government would have done better if they had not sanctioned their establishment; but if they were to be established, he thought the provision which this clause proposed to make an important and beneficial one.

MR. APSLEY PELLATT said, he looked at these halls as likely to facilitate the admission of Dissenters to the University, and he objected to the proposed control over the attendance of the pupils on divine worship, as tending to interfere with that object.

Mr. ROUNDELL PALMER said, it would be more convenient that the question of admitting Dissenters to the privileges of the University should be discussed in the clauses of which the hon. Member for North Lancashire (Mr. Heywood) had given notice, and not be broken up into small discussions.

Amendment *withdrawn*.

Mr. HENLEY said, he wished to inquire the meaning of the term "great halls?"

THE CHANCELLOR OF THE EXCHEQUER said, he apprehended as a technical definition that "great halls" would fall under the general term of "hall;" but it had been suggested that it might be useful to unite together private halls for two purposes—first, that these halls might have distinct and special interests of their own, forming a class in the University; and secondly, there might be features in their case requiring special attention and special guardianship. Now, if they were placed under an officer of the University, charged with their especial patronage, it would be very convenient. On the other hand, it was clear that if these halls should multiply, they would make a considerable addition to the business of the University in the enforcement of discipline, and it would be convenient to have some one person whom the University might look upon as responsible for the discipline of these halls. Of course, when a union took place, they would be under the charge of the person appointed for the great halls.

LORD SEYMOUR said, he would suggest the omission of the word "great," particularly if "hall" and "great hall" meant the same thing.

THE CHANCELLOR OF THE EXCHEQUER said, the clause clearly showed that "great hall" would be an aggregation of private halls.

Mr. HENLEY said, he thought there would be less confusion if the word "great" were omitted. There was one oversight in the clause to which he wished to direct the attention of the Committee. Power was given to the University to unite or aggregate these halls together with their own consent, but no power was taken to separate them. Was it intended that the aggregation should be in perpetuity? If it was intended that they should have power to separate, a direct provision should be made for that purpose.

THE SOLICITOR GENERAL was understood to say, that the clause gave

sufficient power to make alterations or dissolve.

Mr. HENLEY thought the insertion of a specific provision to that effect would be more satisfactory.

Clause *agreed to*.

Clause 31 (Colleges may amend Statutes with respect to eligibility of Headships).

SIR WILLIAM HEATHCOTE said, he thought the clause required amendment in two respects. He was doubtful whether the words, "to ensure the same being conferred according to personal merits," might not raise some very questionable matters involved in the clauses which had been withdrawn. He thought it would be desirable to leave out those words and insert the words of which he had given notice, "so as to prevent the same from being conferred without reference to merit." It would then be open to the authorities to deal with all preferences, and perhaps to do away with them. It ought not to be made imperative on them to do away with preferences. There was another point in which the clause also required amendment. He thought the provision too vague with reference to right of appeal to the Privy Council, for the Privy Council would hardly know on what principles they were required to act. The improvements were to be made in certain specified subjects, and they ought to be made on certain specified principles in accordance with the designs of the founders, and he proposed to introduce words for the purpose of making the intention more clear. He likewise proposed to make the preamble of the clause more definite. The words now stood thus—"And whereas it is expedient to enable colleges to alter and amend their Statutes," &c. He proposed to omit the words "it is expedient to enable," and to substitute the words of which he had given notice.

Amendment proposed, in page 7, line 25, to leave out the words "it is expedient to enable," and insert the words "the interests of religion and learning, and the main designs of founders and donors, would in many cases be advanced by enabling,"—instead thereof.

THE CHANCELLOR OF THE EXCHEQUER said, the adoption of the Amendment of the hon. Member for the University would have the effect of altering the form of the sentence and lead to confusion, because it introduced words at the commencement which were recited subse-

quently. He should not object to the insertion, after the word "expedient," of the words "for the interests of religion and learning." The hon. Baronet appeared to think the word "merit" too stringent. It was not intended to make the word "merit" so stringent as the hon. Baronet apprehended. But the Amendment, instead of making a substantive enactment, enacted a negative, the words being, "so as to prevent the same from being conferred without reference to merit." It perhaps might be desirable to combine with the word "merit," which was a comparative standard, the word "fitness," which was a positive standard. The words would then stand, "personal merits and fitness." As the clause at present stood it did not give the power of making rules for the future, and he proposed so to amend the clause as to confer such a power.

MR. WIGRAM said, he did not think that the Amendment proposed by the hon. Baronet in the preamble would at all disorganise or disarrange the intention of the clause, but, on the contrary, he believed that it would make it more in harmony with the other provisions of the Bill. The words proposed ought to be made the governing principle of this clause as they were of the 33rd clause, and besides this, they were the words contained in the preamble of the Bill. If the words should be omitted, it would appear that the two clauses stood on a different footing.

"Question put, 'That the words 'it is expedient' stand part of the clause.'"

The Committee divided:—Ayes 94; Noes 80: Majority 14.

MR. WALPOLE then proposed the insertion in the clause of words rendering it necessary that any alteration in the Statutes of the colleges should be made "with the consent of the visitors."

THE CHANCELLOR OF THE EXCHEQUER said, that he was sorry the Government could not assent to this proposition, which, in addition to the vetoes already included in the Bill, would invest with a distinct veto upon any alterations of the Statute the visitor of each college. It was not intended by the founders of the colleges that the visitors should have the power of remodelling the Statutes, or reconstructing the college system, and it was not therefore required by a respect for the will of the founder that such a veto as this should be given to them. Alterations in the Statutes would be made by men who

*The Chancellor of the Exchequer*

were responsible and were substantially interested in the colleges, and it would not be rational to submit them to the visitors, whose connection with the college was not at all intimate, and who were perfectly irresponsible. Many of the visitors were persons who might be termed, not in an invidious sense, obstructive, and it was not desirable that the interests of a college should be sacrificed, and the labours of Parliament frustrated, by the will of such a visitor. He thought that the connection between visitors and colleges was good, but it was a connection which had regard to ordinary and secondary matters, and not one of which the intention was that the visitors should have control over the most vital questions affecting the construction of the colleges. He felt it impossible, therefore, for Government to accede to the Amendment.

MR. WALPOLE said, that it was the duty of the visitors to protect interests other than those of the college, and it was in order to enable them to protect such interests from sustaining injury from any alteration of the Statutes that he proposed to give them this veto. If the Committee supported him he should be disposed to divide upon the Amendment.

MR. NEWDEGATE said, he thought some regard ought to be paid to the intentions of the founders, and he should therefore support the Amendment. Instead of these visitors being only nominally attached to those colleges, they were invested in many cases with very large powers. In some cases they had even power to alter Statutes. In all cases it was the duty of the visitors to see that the interests of the founders were duly carried out. In some of the colleges the visitor was absolutely termed the *co-fundator*. Suppose that an alteration was suggested in the Statutes in some of the colleges, by which the number of the Statutes would be diminished, and the value of those remaining increased, who was the independent officer to represent the intentions of the founder? Why, the visitor; who was at first appointed trustee with large powers, and who so far from being irresponsible, was liable to be brought before the courts of common law if he abused his functions. [*Cries of "No, no!"*] He heard some hon. Members deny this statement. He, however, believed it to be true. Whether that was the case or not, it could not be denied that the visitor was the natural trustee—the independent party appointed by the founder to see into the

fair distribution of the property, and the proper application of the funds.

MR. ROBERT PHILLIMORE said, he did not believe that the visitor had any authority to make new Statutes or to alter any of those that were in existence. Although he thought it very undesirable to exclude all mention of the visitor from this clause, at the same time it would be most undesirable to give him such a veto as was proposed by the right hon. Gentleman the Member for Midhurst. He suggested, therefore, the introduction of the words "having taken counsel with the visitors." This would ensure the taking of the advice of the visitors by the colleges, and yet would not give the former the veto.

SIR WILLIAM HEATHCOTE said, he doubted whether the suggestion of the hon. and learned Member for Tavistock (Mr. R. Phillimore) would be satisfactory. It was open to this objection—it would necessarily bring the visitor into action without giving any effect to his interposition. On the other hand, he felt a great difficulty in going the length of the Amendment of the right hon. Gentleman the Member for Midhurst (Mr. Walpole). He thought that it would be putting the visitor in a position not intended by the founder. He would suggest this as a middle course—that inasmuch as the visitor was in some sense a trustee, he thought he should have a right of appeal to the Privy Council. When they came to the clause of appeal, he would propose an Amendment to carry out this view. He could not see any objection to the visitor being an appellant party to the Privy Council.

MR. GRANVILLE VERNON said, he thought it was most undesirable to give the visitor the arbitrary power proposed by the right hon. Gentleman the Member for Midhurst. He believed that the visitor had nothing whatever to do with the schools.

MR. HENLEY said, the right hon. Gentleman the Chancellor of the Exchequer had observed that he could not support the Amendment of the right hon. Member for Midhurst, because the visitor might be an obstructive, not in an invidious sense. They, on the opposite side of the House, might say that the members of the University might be destructive, not in an invidious sense. So that setting the members against the visitors, there might be a balance between them on this score. The Government proposed in their former Bill to give security to the founder's kin, but the present Bill gave no such security.

He thought that the Amendment of his right hon. Friend would give great security to those interests.

LORD JOHN RUSSELL said, it appeared to him that the appointment of visitors was made, not with a view to such enactments as this, but with the view of maintaining the Statutes which the founder had enacted, and taking care that the principal and fellows of the college did not differ from them. It was obvious that an eminent person, holding an eminent position, and worthy to be Bishop of Winchester, of Lincoln, or of Oxford, might be a very fit person to see that the Statutes were observed; but it was quite another question whether these were fit persons, or would by the founder have been thought fit persons, to judge as to any alterations in these Statutes which Parliament might think desirable, more especially to have an absolute control over these alterations, which they would have according to the Amendment of the right hon. Gentleman. The proposition of the hon. Gentleman the Member for the University of Oxford (Sir W. Heathcote) was of a totally different nature, and when the Committee came to that part of the Bill, there would, on the part of the Government, be no objection to the introduction of some words which would meet the views of the hon. Baronet.

MR. PHINN said, the visitor at present had only an appellate power in these colleges. The hon. Member for North Warwickshire (Mr. Newdegate) was mistaken when he said that the decision of the visitor could be reversed in a court of law so long as he acted within the limits of his jurisdiction. He would suggest to the right hon. Member for Midhurst that he ought to withdraw his proposition, and be satisfied with the Amendment proposed by the hon. Member for the University of Oxford. If the visitors had kept up with the requirements of the times, there would be no necessity for the intervention of Parliament.

*Amendment withdrawn.*

SIR WILLIAM HEATHCOTE said, he wished to propose the alteration of the fourth line of the clause, so that, instead of providing that it was desirable to ensure that college emoluments should be conferred according to personal merits, it might read, "so as to prevent the same from being conferred without reference to" personal merits. His object in proposing this alteration was, to prevent the clause having the effect, which it seemed to have as it then stood, of

concluding the question of preferences, and thus doing more than the Bill, as originally introduced, was intended to do. It was with that view, and not with regard to the question of moral, as opposed to intellectual, fitness, as seemed to be understood by the Chancellor of the Exchequer, that he proposed this alteration.

MR. ROUNDELL PALMER said, he should support the Amendment. Unless it were intended to abolish all preferences, some of which, arising from birthplace, family, indigence, or for other reasons, were by the original Bill permitted to be retained, it seemed to him that the alteration proposed by his hon. Friend was absolutely necessary. If the phrase "without reference" were, as it seemed to be by the Chancellor of the Exchequer, considered to be too vague, as admitting the slightest possible reference, he would suggest that there should be substituted for it the words "without due regard." If, however, his right hon. Friend the Chancellor of the Exchequer thought that he could suggest anything else which would clearly answer the purpose for which this alteration was proposed, there would be no desire to stand upon words.

THE CHANCELLOR OF THE EXCHEQUER said, that he was afraid he had not clearly conveyed to the Committee what he considered to be involved in the introduction into the clause of the word "fitness" after "personal merits." The words were substantially brought from the preamble of the Bill. When they were about to propose an enabling clause, and to give up certain clauses which they had before, it became necessary to take general words as to the sense to be given to the enabling powers; and the words adopted were words capable of receiving such a construction as would confine the Commissioners to the standard of competition. In the Bill, as it stood at present, there was not a single word against any of the preferences now existing. That was an important change, certainly; and he believed it would be generally admitted that the way to deal with the preferences, if they were to be dealt with at all, must be either to abolish them altogether, or greatly to mitigate or relax them; but there was nothing said in the Bill about that subject, beyond the general powers given for amending the Statutes. Now, although the words "with due regard to merit" were much better than "with reference to merit," still he thought they would not be held to be satisfactory, because under those words some Gentle-

men might recognise it to be showing a due regard to merit to treat it as a subordinate matter, and one that was to be taken as subject to the statutes, establishing other conditions than personal merit. The objection, he thought, would be better attained by combining the words "merit" and "fitness." He therefore hoped the expressions "to be conferred according to personal merit" would be retained, as they would distinctly point to competition; but let them confine the clause by the word "fitness," which was in fact the English translation of the very rule now laid down in the Statutes, where personal fitness was combined with the existing preferences, because those Statutes, whilst providing that the persons should come from a particular school, or a particular locality, or be of the founder's kin, yet required that they should be *idonei*. He, therefore, thought that personal merit and superior fitness in candidates should be the general rule adopted; and he believed that a proper regard to the other conditions was sufficiently provided for.

MR. HEYWOOD did not see the necessity for inserting the word "fitness," and believed that "personal merit" fully met all the requirements of the case.

MR. J. G. PHILLIMORE said, that, as the clause stood there was no reference to preferences; and, as he understood, it was not the object of the Government to abolish them. The words of the clause were very ambiguous, and its intention ought to be more clearly expressed. He understood the view of the Government to be that merit should be the first criterion; but that if two candidates were equal in that respect, then a particular birth-place or connection would confer the preference.

MR. HENLEY said, he thought the words of the clause scarcely bore out the sense of the preamble, and he believed that the words suggested by the hon. and learned Member for Plymouth (Mr. Roundell Palmer) would be very valuable.

MR. ROUNDELL PALMER said, he considered that there ought to be no ambiguity in the clause, and he objected to the sweeping away of preferences by a side-wind. His hon. Friend (Sir W. Heathcote) had informed him that he was willing to waive his Amendment, and to substitute, for the words "according to," "with due regard to," in connection with the words, "personal merit and fitness." He (Mr. R. Palmer) would, therefore, move to leave out the word "according," and to introduce "with due regard," in lieu of it.

*Sir W. Heathcote*

THE SOLICITOR GENERAL said, that if it had been his object to create ambiguity and to throw in a bone of contention, and to leave everything in doubt and difficulty, he would have introduced the very words selected by the hon. and learned Member for Plymouth. The desire of the Government had been to lay down a rule that would be a certain guide by which the colleges should act, and should have a rational chance of not being driven into the power of the Commissioners; and that object, he thought, the words of the clause would successfully accomplish. It would enable the colleges to retain any school, local, or other preferences, wherever there was a sufficient number of candidates to ensure the bestowal of the emoluments according to merit. These preferences would therefore be preserved as far as it could be done consistently with fair competition; and he trusted that the words of the clause would be retained.

MR. WIGRAM said, there could be no doubt but that under this clause existing preferences might be retained, and he trusted that before the discussion ended, the Solicitor General would state whether the Government understood that the clause gave the power to the colleges to make a rule by which these preferences would be abolished. He was apprehensive that, as the words now stood, however clear and reasonable the preferences might be, and although it might be the case that among the candidates entitled to preference, there were candidates who were perfectly *idonei*, and fit to be selected, yet the college might make a Statute providing that the best candidate should be taken, without regard to any preference. By way of illustration he would take the Welsh foundation, which was established to give particular preferences to Welsh students. In a case of that sort he apprehended that, as the words stood, "to ensure the same being conferred according to personal merits and fitness," the college might make a rule that the best man should be taken, whether he was a Welshman or not.

THE CHANCELLOR OF THE EXCHEQUER said, he thought the hon. and learned Gentleman (Mr. Wigram) wished to saddle Oxford with a set of restrictions from which his own University (Cambridge) in almost every case had emancipated itself. The hon. and learned Gentleman wanted to enact that there should be no power given to Oxford to liberate itself from the restrictions of the Statutes

which direct that there should be preferences given to the natives of given localities, and to certain persons who came up to a specified standard, or who were *idoneus*. Such a proposal was rather hard on the part of the hon. and learned Gentleman, when there was scarcely a college in Cambridge which was not released from these restrictions. The hon. and learned Gentleman went beyond his hon. and learned Friend the Member for Plymouth (Mr. R. Palmer); and his doctrine really cut at the root of the whole Bill in its present form, because when an enabling Bill was before the Committee, he objected to the giving of any power that could possibly be abused. The Committee must either lose itself in a complex mass of details, as to the direction and the mode in which the enabling powers must be exercised—that was one alternative, and then they would embark in a laborious Session of which they could hardly hope to see the end—or they must adopt the other alternative of giving large powers, which of course were capable of a rash, excessive, and indiscreet application; but that abuse was only to be corrected or averted, first, by intrusting the powers to competent persons, and next, by accompanying them with proper checks. If the hon. and learned Gentleman meant that the power of abolishing preferences might be unwisely or indiscriminately exercised in certain cases, in the first place objection might be taken to the course of the Commissioners, and carried to the Queen in Council; and next the judgment of the House of Lords, and also of the House of Commons, might be appealed to; and he hoped that his hon. and learned Friend would rise in his place, if he could show that these powers were badly exercised, and move an Address to the Crown; and then, if he convinced the Committee of the truth of his view, no doubt the whole of the proposed change would fall to the ground. But he (the Chancellor of the Exchequer) thought they might abandon the labour of reforming Oxford University altogether, if they enabled the colleges to reform the Statutes, and did not enable them to touch the preferences in any case, where a person came up to the standard of *idoneum*.

SIR W. HEATHCOTE said, what he desired was, that the colleges should have power to retain the preferences, and not that they should be precluded from modifying or abolishing them. He wished the

colleges not to be compelled to abolish them, but to have the power of considering each upon its own merits.

MR. GRANVILLE VERNON said, it was important that the clause should state as distinctly as possible what the meaning of the Government really was. If the words "with due regard to" were too vague, it appeared to him that the words now standing in the clause narrowed the question a great deal too much. He looked upon the word "personal," for instance, as objectionable. If they could insert some words which would have reference to those school and local preferences, well and good; but he must confess that, for his own part, he would rather omit these words altogether.

MR. WIGRAM said, his apprehension was, that the clause as it stood would oblige a college, wherever the power was exercised, to have reference only to personal merits, as though no other grounds of preference were fit to be retained. He did not object to there being a power, in some cases, to abolish those local preferences; but he feared that personal merit and fitness would be made the only test of qualification, and that regard would not be had to the subject of eligibility.

LORD ROBERT CECIL said, he had understood the Solicitor General to intimate that the Bill left a college at perfect liberty to retain a preference, but only a preference, for the best man—that was to say, that the preference intended by the original founder should not be put in execution. Of course, for such a liberty as that, they had not much reason to be obliged to the Bill. He should vote for the Amendment.

MR. MALINS said, he took it that the object of the Committee was to arrive at some expression which should at the same time ensure election upon personal merits, and have due regard to the main designs of the founders. That was to be found in the preamble, and that, he understood, was the intention of the Government. To meet what was the object of all parties, therefore, he would suggest that the words "to make ordinances for permitting" be left out, and that the following words be inserted in their stead, "and to ensure the same being conferred according to personal merits and fitness, and the main designs of the founders." Thus the clause would provide a security for personal merits, and where the personal merits existed the main designs of the founders would be duly regarded in amending the Statutes.

*Sir W. Heathcote*

MR. EVELYN DENISON said, he regretted that the right hon. Gentleman the Chancellor of the Exchequer had conceded the introduction of the word "fitness," as he much preferred the clause as it originally stood. The word *idoneus* had given rise to one-half the abuses existing in the University, and he hoped the Chancellor of the Exchequer would resist any further addition.

MR. WALPOLE said, it appeared that the intention of the Government was much the same as it was on the former Bill. Under the former Bill certificates of merit were required; the examiners were to have regard to the student's age, and whether he had made due progress in the required studies, and also to the designs of the founders. And he understood the Chancellor of the Exchequer to say now that he did not wish to exclude preferences to a certain extent from being still retained in colleges, provided there was a sufficient certificate of merit equivalent to that which was required by the former Bill. But was it left open by the clause in its present shape? That depended upon four words, "to ensure" and "according to." They were "to ensure" that the college emoluments and rewards were conferred "according to" personal merits and fitness. Then came the question, what was the meaning of the words "according to?" The definition of Dr. Johnson was that they meant "suitably to" and "agreeably to;" which was the construction put upon them by hon. Gentlemen opposite, and in which sense they would effect the views of the Chancellor of the Exchequer. But, if they examined Johnson's illustration of the use of the phrase, they would find that "according to" also meant "in proportion to." And, in his opinion, they ought not to confer these emoluments in all cases "in proportion to" personal merits; but should have regard to other matters in connection with personal merits. He hoped the Amendment would be persevered in, for there was an ambiguity about the words "according to," whilst there was none about the words of the Amendment.

MR. NEWDEGATE said, he understood the intentions of the Government were to leave, under the term "personal fitness," a latitude so as not to exclude consideration of the designs of the founder. What objection, therefore, could they have to adopt the words proposed, which met the case completely, and placed the question

of personal merit upon the same footing as the "main design of the founder?"

MR. FLOYER said, the clause was a discretionary clause, and the Committee was trying to do what was impossible by its means—namely, to destroy and at the same time to protect. The only way was to leave the matter open to the Commission, and the Amendment of the hon. and learned Member for Plymouth met the difficulty in some degree; but it left too much power to the colleges and the Commissioners to destroy all exclusive limitations to schools and colleges. He should vote for the Amendment, but he thought it an inefficient one, as it would not carry out the object in view.

MR. ROUNDELL PALMER, in reply, said, that he did not think the Amendment was open to the objections that had been made to it, and as some hon. Members thought it would be right to divide, he should press the Amendment to a division.

Question put, "That the word 'according' stand part of the clause."

The Committee *divided*:—Ayes 63; Noes 41: Majority 22.

MR. HEYWOOD said, he wished to propose at line 29, to leave out the words "and to make ordinances for promoting the main designs of the founders," his object being to raise the question whether they should tie themselves, as was proposed, to intentions of the college founders. He considered that it was hardly possible to follow out many of the designs of founders who existed 400 or 500 years ago. Some of them wished to have their own souls and the souls of their relations prayed for, and some included the souls of those who died in battle, while one orthodox person in Catholic times had for his object the extirpation of heresy. Many of the designs of these founders were not in accordance with modern requirements—such, for example, as prevented the marriage of fellows of the University, and those which, in some cases, enjoined compulsory ordination. It would be much better if such Statutes as these were altered so as to suit the wants of modern times. The object of Parliament was to bring the colleges into harmony with the institutions of the country at the present day. It was impossible that founders who lived 400 years ago could foresee the circumstances in which their foundations would be placed in the nineteenth century, and there ought to be no difficulty in making them more in accordance with modern usages. He was

sorry the Government had made so many concessions as they had made with respect to this Bill; he believed it was not so good as it had been. This, it should be remembered, was a new clause from which he proposed to omit these words.

THE CHANCELLOR OF THE EXCHEQUER said, he regretted, with the hon. Gentleman, that certain changes had been made in the Bill; but the changes referred to were made under the pressure of a very severe alternative—namely, to make the alterations or not pass the Bill at all, and were not made from any change or alteration of their views on the part of the Government. It was merely intended, by the insertion of the words proposed to be omitted, that the subject should be one of the objects to be kept in view, and should be one amongst the various elements which the Commissioners were to take into consideration; and, taking them in that sense, it was right to retain them. The preamble to the Statute of Corpus Christi College, for example, spoke of learning and of religion in such a way as not to point to any description of sacred duties in preference to secular studies; but from the Statutes of Brasenose College, the object of the founder appeared to be altogether theological. Suppose those two colleges should send in schemes to the Commissioners which would have the effect of giving to the endowments of Brasenose a direction more clerical or ecclesiastical than the other, that would not be an unreasonable proceeding. There were certain cases where foundations were created for particular schools; and, though he did not say that, if they were mischievous, they ought to be sanctioned, or that meddling arrangements should be tolerated, he thought the circumstances of the founders ought to be taken into view to guide the judgment of the Commissioners. The hon. Gentleman wished to reduce everything to a perfect level, and to start afresh, but that was not the view the Government proceeded on, or the view on which they could induce the Commissioners, the colleges, or that House to proceed.

MR. J. G. PHILLIMORE said, he quite admitted that the promotion of religion and learning had been a leading object with the various founders, but it had not been, by any means, the paramount object in a great many instances. The especial benefit of particular localities, and of particular classes of persons, had been a very leading aim with many founders, and the

respect which had been hitherto paid to their wishes had been in numberless instances productive of the greatest public advantage, as in the case of the two Scotts, whose pre-eminent abilities would have been lost to the country had it not been for one of these foundations. He trusted that these great and beneficial institutions would not be sacrificed to the mechanical sciolism of the present day.

Question put, "That the word 'and' stand part of the clause."

The Committee divided:—Ayes 92; Noes 15: Majority 77.

MR. MALINS said, he rose to move another Amendment. He thought it was of the highest importance to keep in view the benevolent objects of the founders of the colleges, and nothing could be more monstrous than to maintain that all the intentions of the founder were to be disregarded, and his bounty devoted to other purposes. To prevent that, he would move the omission of the words which allowed the colleges to make ordinances for promoting the main designs of the founders. He would give them no power to make ordinances at all, but would provide that the fellows, heads, &c., should be elected according to fitness and to the main designs of the founders.

THE CHANCELLOR OF THE EXCHEQUER said, it appeared to him that this Amendment would defeat its own object. As the clause stood, the main designs of the founders were to be had in view in every ordinance the colleges might make, and in every act they might do. If this Amendment were carried, the colleges would be bound to have regard to the main designs of the founders in the election of fellows only, and in no other matter whatever.

MR. NEWDEGATE said, it was plain, from the terms of the clause, and from the defence set up, that no regard was to be had to the main designs of the founders in the election of fellows or in scholarships. Now he considered that regard ought to be had to the main designs of the founders, not only as respected merit, but as regarded the persons of those who benefited by the bequests. The right hon. Gentleman the Chancellor of the Exchequer said this object was to range over everything; if so, why disconnect the purposes of the founder with the persons of those who were to benefit by the bequests? If personal merit was to have preponderating weight, why not also say that the parties

selected on this ground should also be persons specifically intended to be benefited by the founders? The right hon. Gentleman said, however, that preferences for particular schools or localities manifested by founders should not be henceforward observed, but that the main condition should be personal merit. The right hon. Gentleman wished them to believe that the words of the clause, which appeared to require nothing but personal merit, would also be found to include the intentions of the founders. If so, why not give the same latitude to preferences that were given to personal merit? Why disconnect them, as appeared to be the case? And why was the previous Amendment of the hon. Baronet (Sir W. Heathcote) rejected? He confessed he was unable precisely to understand the objects of Government. It appeared to him that the clause was so framed as to give those who were to amend the ordinances the latitude of deciding by personal merit without regarding the intentions of the founders. One word as to the subject of foundations. Hon. Members had spoken of preferences of localities and schools as if they were a complete nuisance. Government at once rushed in, and appeared disposed to alter the disposition of what was regarded as misapplied property. Misapplied property! Why, what was it but property applied to the education of men who had gained eminence in after life, who had led the Senate and the country? If it was consonant to the feeling of the people to make the proposed change, why did they subscribe for a testimonial to the memory of the late Duke of Wellington, not for a Statute, not for an estate to be enjoyed by his descendants, but to take the form of an institution for the education of the children of those who had been his companions in arms. This very act condemned the attempt to give away and ignore the preferences established by former founders. The acts of the Government and public opinion proved that Government were acting in contravention of the common sense of the country in attempting to sweep away these foundations. They would even do worse if they carried their point—they would deprive the poor of one means of obtaining rewards and distinctions. They who were clamouring for extending education throughout the country were now found deliberately striking down the means which contributed to the eminence and usefulness of existing

*Mr. J. G. Phillimore*

schools. He hoped the Committee would agree to the proposed Amendment.

MR. WIGRAM said, the right hon. the Chancellor of the Exchequer had just stated that the phrase, "the main designs of the founders," overrode all the other parts of the clause. Now, the fear on his side of the House was, that it did not—that it gave a separate and distinct power to the colleges, which they were not bound to exercise according to the main designs of the founders. Now all these fears would be removed if the Government would consent that at the end of the clause some such phrase should be inserted as this—that all that was before inserted should be done, "due regard being had to the main designs of the founders." He was the more anxious on this point because at present the tenure on which the foundations rested was the will of the respective founders. If any departure was made from those designs, then the foundations would rest not upon the will of the founders, but upon this Act of Parliament; and the question would soon be started whether Parliament had not the power to obviate them altogether. If his suggestion were agreed to, he would be willing, on his part, to leave it entirely open to the colleges to determine what those designs in each case were.

THE CHANCELLOR OF THE EXCHEQUER said, he objected to the proposition of the hon. and learned Gentleman, as an endeavour to insert at the end of the clause what they had already refused to insert in the preamble, and for the same reason—that it would override the whole clause. His hon. and learned Friend was fond of laying down broad propositions, which were often untenable. For instance, he said that if the will of the founder were departed from, the tenure of the foundation would be disturbed. Now, he would give the hon. and learned Members just one case—one in a thousand—which would show the fallacy of this supposition. The founder of All Souls College had, by every provision which the wit of man could suggest, tied up everybody connected with the college, from the visitor downwards, from doing anything, or saying or prescribing anything that in the slightest degree departed from the letter of the Statutes. Very well. Now, here was an example of how his intentions had been observed—

"John, by Divine Providence, Archbishop of

Canterbury,—whereas there are several rules and ordinances which deprive those of your fellows out of the kingdom, or absent from the college, of divers emoluments of their fellowships, such clauses are to be construed with a tacit exception for those abroad in His Majesty's immediate service, whose attendance upon His Majesty ought not to be to their prejudice, but they ought to be assumed as present in the college."

That was the sort of practice which had obtained, and yet with such instances it was argued that there ought not to be any interference.

LORD ROBERT CECIL said, he thought he ought to answer that it was true that the Statutes of Archbishop Chicheley did prohibit non-residence. But if they looked at the charter granted by Henry VI., which empowered Archbishop Chicheley to found the college, they would see that by the terms of that charter every succeeding archbishop had as much power to make Statutes, and that those Statutes were to have exactly the same force as those of Archbishop Chicheley himself. Now the oath the fellow took was to observe the Statutes of the college, which, as he had shown, might be, and had been, modified by succeeding archbishops.

MR. MOWBRAY said, he could not support the Amendment of the hon. and learned Member for Wallingford, because he thought the omission of the words would weaken the force of the clause. He should prefer giving his support to the Amendment of the hon. and learned Member for the University of Cambridge (Mr. Wigram).

MR. HENLEY said, it was plain to him, if the words stood unaltered, that regard would only be had to personal merit, and nothing else. The intention of the founder would be shut out, except in one way. There never was a greater libel uttered by any one than had been uttered by the hon. Member for North Lancashire (Mr. Heywood) with reference to what he had asserted of those who enjoyed the benefits of these foundations. There was one effect of this clause which appeared to him to have been overlooked. It might be that parties, if they could not carry out their views, would do nothing. Now, provision should be made to meet this, and to prevent the whole affair from thus being brought to a dead lock, and hindering that which, if carried out in a fair spirit, might be desirable. If they meant that the designs of founders should be overridden, then they were consistent in what they were about; if they really wished to have

regard to the intentions of founders, then they must alter the clause. He was quite willing to vote for one or both of the Amendments. All he wanted was, while giving to Government free action for amending the Statutes, to take care that this was done consistently with the objects of the founders.

THE CHANCELLOR OF THE EXCHEQUER said, the noble Lord (Lord R. Cecil) had made a very bold and courageous answer when he said that the Archbishop of Canterbury had the same right to dispense with actual residence as the original founder. This was not the opinion of the Archbishop of Canterbury. The Archbishop did no more than interpret the Statutes; and the noble Lord would perhaps recollect that a distinct oath was taken by every fellow that he would, for no consideration, obey no Statute whatever which varied in any manner or derogated from the Statutes made by Henry Chicheley, the founder.

LORD ROBERT CECIL said, the fellows first swore they would obey the Statutes of the college and no other Statutes, unless they had been or were to be imposed upon them by Henry Chicheley. But this did not imply what the Statutes of the college meant. The right hon. Gentleman said that it was not the opinion of the Archbishop of Canterbury that he had the power to dispense; but Archbishop Stafford, a very few years after the founders' death, asserted that he had the power.

THE CHANCELLOR OF THE EXCHEQUER said, he believed there had never been a single Archbishop of Canterbury who had ever, in any manner, asserted that he had the right to vary the Statutes of Chicheley. If there had been, it certainly was an isolated case.

MR. MALINS said, he could cordially support the Amendment of the hon. and learned Member for the University of Cambridge; and he believed the hon. and learned Member could as cordially support his. The two Amendments were perfectly consistent with each other, for one said that amendments made in the Statutes should be in accordance with the main designs of the founders, and the other, that the persons who should derive benefit from the colleges should be elected upon grounds of merit and fitness, and in accordance with the main designs of the founders. After listening to the observations of the right hon. Gentleman the Chancellor of the Exchequer, he was un-

able to give the Government credit for wishing to preserve the main objects of founders, for the right hon. Gentleman had quoted the departure from the Statutes of All Souls as a precedent that the intentions of all founders were to be departed from if it were convenient. This was a principle which he (Mr. Malins) entirely repudiated. On the same principle, the intentions of the subscribers to the Wellington memorial might fifty years hence be departed from by the House of Commons of that day.

MR. HEYWOOD said, that both at Oxford and Cambridge there were fellows of colleges who obeyed the Statutes of their founders only so far as obedience was convenient or agreeable to themselves.

MR. MALINS said, he found the general feeling of the Committee to be, that the division should be taken upon the Amendment of the hon. and learned Member for the University of Cambridge, and therefore he would not press his own.

*Amendment withdrawn.*

LORD SEYMOUR said, he would suggest that as the clause was an enabling clause, indicating the intentions of the Legislature, the words "in the case of some of the colleges" should be left out in order that its power might be general. The words would then run thus—"and for rendering portions of their property or income available to purposes for the benefit of the University at large." He saw no advantage in retaining the words he wished to leave out; and he certainly thought that if there were to be charges upon the colleges for the general purposes of the University, they should be imposed, not upon a few of the colleges, but by a percentage upon the whole.

THE CHANCELLOR OF THE EXCHEQUER said, he objected to the suggested change, on the ground that there were many colleges with regard to which it was entirely out of the question to make any demand whatever for the benefit of the University at large.

MR. GRANVILLE VERNON said, he would cite Christ Church as a proof of how unjustly the suggestion of the noble Lord would work; that college alone paid out of its own funds no less than six of the professors.

LORD SEYMOUR said, he would not press the suggestion.

THE SOLICITOR GENERAL proposed to add, after the word "colleges,"

*Mr. Henley*

in line 34, the words "and amending the Statutes of the same from time to time;" but, subsequently, upon the suggestion that the visitor of the college ought to be consulted and have a voice in the matter, it was arranged that the words "with the consent of the visitor" should be inserted.

MR. WIGRAM then moved the introduction of words which provided that the regulations and ordinances to be made by any college should not be inconsistent with the main designs and intentions of the founders or donors.

Amendment proposed, in line 40, after the word "purposes," to insert the words "so always that such regulations and ordinances be not inconsistent with the main designs of the founders or donors."

Question put, "That those words be there inserted."

The Committee *divided*:—Ayes 87; Noes 92: Majority 5.

MR. HENLEY said, he wished to know whether there would be any objection to insert a limit of three months within which the Commissioners should agree to or reject any scheme submitted by the colleges, as there was a limit of two months in the case of the colleges?

THE CHANCELLOR OF THE EXCHEQUER said, the cases were not parallel. The colleges were to exercise, within a definite period, the prerogative to put an end to the whole proceeding. That was totally different from the answer of the Commissioners, because that answer was not final, and there might be a remission to the colleges for further amendments. The proper provision against unnecessary delay was to appoint men as Commissioners and secretaries, with sufficient devotion for carrying on the work. He was afraid it would be even mischievous to lay down a limit of time, which would naturally be large to cover all cases, and might become the uniform rule in simple cases not requiring any such delay. The best way was to trust to the Commissioners.

On the Question that the clause, as amended, stand part of the Bill,

MR. BLACKETT said, he believed this was the moment to express an opinion on the nature of the clause, which was the first of the new clauses affecting the entire character of the Bill. He agreed with the hon. Member for Stroud (Mr. Horsman) as to the extreme inconvenience of introducing these alterations, when they had had no opportunity of discussing them, or doing what they might have done upon

the second reading, had the measure then presented its present appearance. He was not going to quarrel with the Government for their decision in withdrawing the original clauses of the Bill, because, considering the determined opposition with which they were met, and the much greater opposition threatened, the Government had no alternative but to do with a good grace what they would otherwise have done upon compulsion. But then came the question which had often and would be repeatedly asked, as long as the Bill was before the House, whose fault was it that so little popular support and enthusiasm had been enlisted in behalf of a measure of educational reform? It could not be said that the country was indifferent, for night after night the table had been crowded with petitions from every great town, and almost every Dissenting congregation, in language of much force and earnestness, praying for great academical reforms. Seeing, however, that no mention was made in the Bill of the admission of Dissenters to the Universities, he did not wonder that the middle classes, on whom every Liberal Government could alone permanently rely, had not troubled themselves about its fate; but he did wonder that the noble Lord (Lord John Russell) should have dispensed with the support of that class which had stood by him in all his struggles for civil and religious liberty. The Chancellor of the Exchequer, on a former occasion, had boasted that he had conciliated all opposition out of the debate; but the right hon. Gentleman seemed to overlook the fact that he had also conciliated away all support. It was to their want of support, and not so much to the opposition which it had met with, that the manifest failure of the Government measure was to be attributed. A glance at the numbers which had appeared in the various divisions on the Bill, and the present deserted state of the benches behind him, ought to be sufficient to make the noble Lord regret that he had not taken a bolder course on this subject. The clauses regarding examination for fellowships, and other such provisions likely to be beneficial, had been eliminated, and in place of them they had there two clauses, the sum of which was, that the colleges were left to reform themselves, subject to the interference of the members of the Commission, who again were to be subject to the veto of two-thirds of the college fellows. As regarded the colleges, this Bill was no-

thing more than a simple permissive measure, and he could not conceive on what pretence the colleges of Oxford were allowed a privilege which had never been conceded to any other corporation. When the municipal corporations and the cathedral establishments were reformed, no mention had been made of this permissive principle, nor had he heard that they were to be called on to sanction it in the case of the City of London corporation. The provisions of the Bill which related to the heads of houses were compulsory, and he did not know why the fellows of colleges should be treated more tenderly, more particularly as in many instances these last had declared in the plainest manner their intention of making no use of these permissive powers. In fact, they would remain perfectly nugatory. He objected to the clauses because they had a certain tendency to entail at no distant time the necessity of Parliamentary interference. They had no claim to the attention of the Committee, as they were not recommended by the authority of the Commissioners, but had been hastily knocked together by a Government embarrassed by its difficulties and disheartened by want of support, and they would not attain the object of reforming Oxford once for all. Although he objected to the clause, he would not divide the Committee upon it.

SM THOMAS ACLAND said, he looked upon this and the succeeding clause as part of a new system, most wisely and beneficially introduced into the Bill. Although he had divided upon every Amendment of the clause against the Government, he had no objection to receive it, feeling convinced that the Committee would add the qualification proposed by the hon. and learned Member for Plymouth (Mr. R. Palmer) to the 34th clause, without which the interests of certain parties would be very much compromised.

Clause agreed to.

Clause 32.

MR. EVELYN DENISON said, that the hon. Baronet who had just resumed his seat stated that he approved the course of the Government, although he had given his vote against them in every division on the preceding clause. Now he (Mr. E. Denison) had supported the Government through all these divisions, and through the somewhat wearisome discussions which had occurred during the evening. The ordinances and regulations made by the Commissioners were to take effect unless

*Mr. Blackett*

two-thirds of the governing body of the college should certify, within two months, that in their opinion such ordinances and regulations would be prejudicial. Now, what were the "governing bodies" of the colleges? Unless he was very much misinformed, they consisted generally of the older members. In Christ Church, for instance, he believed the governing body consisted of the dean and canons, to the exclusion of the fellows and of all the younger members of the college; and at Queen's, he believed the governing body would consist of the old close foundation, coming from the schools of Westmoreland and Cumberland, while the Michael foundation would be excluded. He thought that all the labour and time which had been bestowed on the discussion and consideration of this Bill would have been brought to a most lame and impotent conclusion if two-thirds of the "governing body," exclusive of the younger members of the colleges, were to have the power of putting their veto upon all that might be proposed. It must be remembered that the members of these bodies were not only disinclined to reform, but that they considered themselves bound, in many instances, by the conscientious obligation of an oath, to oppose any alteration. He would candidly admit that it would have been difficult to pass the Bill in the form in which his noble Friend had originally introduced it; but if the alternative had been put before him, whether he would pass a bad Bill or no Bill at all, he was not prepared to say that he would not have preferred to pass no Bill, because at this moment there was a strong feeling in the country in favour of some change, and if they passed this measure in its present form, they would be giving a statutory power to the colleges to reject proposed amendments if they thought fit, and enabling them to fall back upon an Act of Parliament in justification of them. His object in appealing to his noble Friend—for he knew it was in vain to propose it as an Amendment without his noble Friend's consent—was to make some concession with respect to that proviso in the clause now before the Committee, which gave the power to the governing bodies of the colleges to stop all proposed changes in the University.

LORD JOHN RUSSELL: In answer, Sir, to my hon. Friend I must first say—and I think that the Committee will support me in the declaration—that he is entirely mistaken in supposing that I can

in any way take this Bill and dispose of it in the manner that he seems to think I can do. In fact, the alterations in the Bill, as my right hon. Friend the Chancellor of the Exchequer has confessed, are, in our opinion, alterations for the worse; but they are alterations which we have thought it necessary to make in consequence of the votes of a majority of this House. I have no hesitation in saying that, if the provisions of the original Bill had been supported by the votes of a majority of the House as we went on, clause by clause, I should not have despaired of carrying that Bill through with all its clauses. It might have taken a considerable time, but I think we should have been able to do it. But when it was obvious that the Bill had been changed in many particulars, and when the Hebdomadal Council had lost in my opinion a good deal of its popular character in consequence of the decision of the House which took from the Congregation the power of electing a considerable portion of that body, and conferred it on the heads of houses—when changes of that kind were made, and every clause took up a considerable time in discussion, it was obvious that the choice lay between giving up the Bill altogether, and proposing, with respect to the colleges, such modifications of its provisions as would be likely to pass through Parliament. On a consideration of that question, we came to the conclusion that it would be better to make the alterations which we now propose, not certainly with the view of improving the Bill, but in order to carry into effect considerable amendments in the constitution of the University of Oxford, and to lay the foundation of still further improvements in the future. Now, Sir, I am not one of those who are disposed to say that they will either carry out a principle to its full extent, and have a measure which shall contain everything they think it desirable to put in it, or they will do nothing at all. I have never acted on that principle, and I certainly have found that, by proposing for the time measures of which the tendency and effect were beneficial, other and more extensive reforms were not obstructed, but facilitated. With respect to the present clause, my hon. Friend asks me whether I will change the latter part of it, by which two-thirds of the governing body of a college are enabled, in the manner that is there specified, to defeat the alterations proposed by the Commissioners. I must

say that I think the whole object of our altering the Bill would be defeated if we do not retain that clause, in its general tenor, as it now is. I admit that it is a great disadvantage that we cannot settle the whole question of University reform in the present Session, that so a great and important public question might be set at rest. At the same time I must say that if it should turn out, as my hon. Friend anticipates—if we should find, though it is not for me to say that we shall find—that several of the colleges oppose useful reforms, there will then be a reason why Parliament should legislate, and it will be a question for the consideration of Parliament, whether compulsory powers should not be conferred. My hon. Friend has told the Committee that the ordinances and regulations made by the Committee are intended to take effect, unless within the period of two calendar months two-thirds of the governing body shall declare, by writing under their hand and seal, that, in their opinion, such ordinances and regulations will be prejudicial to the college. But my hon. Friend did not read far enough, for the words of the proviso are, “prejudicial to the said college as a place of learning and education.” Therefore what the two-thirds of the governing body will be obliged to say will be not only that the proposed changes will be “prejudicial to the college,” but that they will be prejudicial to the college “as a place of learning and education.” Now, as almost every person out of the colleges will agree that these reforms are beneficial to learning and education, I think it will be extremely difficult within the college to get two-thirds of the governing body to declare in writing their opinion that they will be prejudicial in the sense which this clause contemplates. My hon. Friend the Member for Newcastle-upon-Tyne (Mr. Blackett) has referred to a question which must come under consideration at some future time, and of which I should leave the discussion to some future time if he had not totally misunderstood the facts. I have stated, more than once, what the facts were, but, perhaps, the hon. Gentleman does not understand them. In the year 1850 my hon. Friend the Member for North Lancashire (Mr. Heywood) proposed a Committee of Inquiry into the state of the Universities. It was a question which had been under the consideration of the Government, which I had myself had under my consideration

for two years before; and when the proposition was made by my hon. Friend, I stated that a Commission of Inquiry would be issued, but I stated at the same time that I thought the question of the admission of Dissenters to the Universities ought to be kept as a question apart, and that I did not propose to refer that question in any way to the Commission. It was not, therefore, in consequence of any suggestion from my right hon. Friend the Chancellor of the Exchequer or from any disposition to agree with him, that it was omitted from the present Bill, but in consequence of the opinions which I had held in 1850, and had declared in 1850—that that question should be kept entirely distinct. I am as fully convinced now as I was then of the propriety of that decision. I am quite sure that if I had proposed a Bill containing the wisest and the best considered provisions for the improvement of the constitution and the course of study of the University of Oxford; and had introduced into that Bill a clause for the admission of Dissenters—Protestant Dissenters and Roman Catholics, and persons of all denominations dissenting from the Church of England—the attention of this House and of the other House would have been turned immediately to that provision, and the whole discussion would have turned on that, while the provisions with respect to study would have been neglected for a provision which would have absorbed too much interest. Now, Sir, I have stated to my hon. Friend the reasons why we have thought it right to alter the latter part of this Bill. It was a question, as the Chancellor of the Exchequer has stated, whether we should have any Bill at all, or go on with this Bill as it stands; and, in our opinion, it was far better to go on with a measure which will effect very important amendments with respect to the constitution of the University, and which contains within itself the seeds of further improvement. With respect to any arrangement with the right hon. Gentleman opposite (Mr. Walpole) I do not suppose that that right hon. Gentleman knew anything about the alterations we proposed to make until he saw them in print. He has stated to-night that those alterations go far to meet the views which he had himself before expressed; but we have seen in the course of the discussion that we have not gone the length to which he would have desired us to go, in making

*Lord J. Russell*

the Bill entirely optional; and it certainly has not been in consequence of any arrangement, or of any agreement, with the right hon. Gentleman that we have made the Amendments we propose.

MR. WALPOLE: Sir, not only does this Bill not go the whole length that I would wish, but it is not in a form in which I would desire to have it, and there are many parts of it which, in my opinion, require material alteration. But when I found that the Government had proposed Amendments which carried into effect the principle upon which I thought the question of University reform could only properly be dealt with, I certainly thought that it would be very wrong on my part, and on the part of those with whom I act, to endeavour to put an end to this Bill because it did not completely carry out our wishes; our desire being to make the University as complete and as efficient as possible as a place of education, and to give the University itself the power to make whatever alterations and improvements might be necessary in order to attain that end. That is the principle which I have always advocated—that is the principle upon which Amendments have been proposed this very evening; and I believe that if that principle had been fully carried into effect, the Bill would not only have been more acceptable, but more beneficial to the University in the end. But then it is said that there are certain words at the end of this clause which give to the colleges greater power of resisting the alterations proposed by the Commissioners than the Commissioners ought to possess; and the hon. Gentleman opposite, the Member for Malton (Mr. Evelyn Denison), has stated that, in his opinion, the Government had better have had no Bill at all than this Bill, because he thinks it is not compulsory enough. Well, but I think the hon. Gentleman has had a pretty strong proof to-night that this House is not prepared to act upon the principle which he recommends, of forcing on the University and colleges a compulsory deviation from the conditions upon which they hold their endowments. I think that it will be wise in the House to adopt the Bill as it is, or with certain Amendments, if they can be carried, which I think they can, so as to make it quite clear that this principle is to be established throughout—namely, that the main designs of founders shall not be interfered with unnecessarily,

and that gifts and endowments made for the benefit of indigent persons, for the benefit of particular localities, for the benefit of those who otherwise would not have had the benefit of a University education, shall not be arbitrarily taken away. If you act on any other principle, I am confident that you will strike a great blow at the extension of benevolent and charitable objects, by individual and voluntary efforts, throughout the length and breadth of the land. I am sure that those benevolent and charitable objects will not be carried out in future to the same extent, unless the individuals promoting them have the distinct guarantee of Parliament that they shall not be interfered with. These, Sir, are the reasons which induce me to support the Bill in its present form, so far at least as it recognises the primary principle upon which a reform of the University and of its colleges ought to be carried out—that of enabling them to act for themselves—retaining the objects for which their endowments were made, and not depriving the schools, the localities, or the persons entitled to those endowments, of that which has raised many a man from deep poverty to the highest position and station in this country. I, Sir, for my part, will never be a party to any measure applicable to any seminary of education in this land, unless that principle is fully and effectually carried out.

LORD JOHN RUSSELL: What has fallen, Sir, from the right hon. Gentleman makes it necessary for me to say that the account which he has given of the intention of this Bill is hardly a fair representation of it. I do not apprehend that it was ever contemplated that endowments which were intended for the encouragement of learning, and to enable the poor of this country to rise to stations of eminence, should be at all obstructed or interfered with by the passing of this measure into a law. But when the right hon. Gentleman mixes with that consideration the main object and the main designs of founders, I think it is obvious that there is a great disposition to mix up two things which are entirely distinct—namely, the particular form in which those designs were carried into effect in past times and in a different state of society, and the manner in which they can be carried into effect now. I think nothing more can be said than that it was the main design of the founders to promote religion and learn-

ing in the colleges and University of Oxford. If we go further than this—if we say the object was to promote a particular religion—it is obvious that before the Reformation the founders intended to promote the Roman Catholic religion, and that the founders since the Reformation intended to promote the Protestant religion as established by law. All, therefore, that we can infer now is, that it was the object of the founders to promote religion. So with respect to learning. All we can say is, that the object of the founder was to enable a particular school to send young men to Oxford, who should be entitled to certain fellowships or scholarships. But if the school had fallen into decay—if, where there used to be 200 boys, there were only twenty or twenty-five—and if the persons who became competitors for the fellowships and scholarships were inferior to the general class of students in the University—could it be said that the designs of the founder were carried into effect? Some alteration is called for; and while I entirely agree in the necessity of the main designs of founders being preserved, I do not think this can be done by adhering—which, in point of fact, is not now done—to the letter of their Statutes.

MR. WARNER said, there could be no doubt that, whatever the merits of this new Bill might be, it was not the measure which passed its second reading some time since. He believed that the clause under discussion would negative the very principle upon which the Bill was originally based. What was the use of having Commissioners, if Parliament gave them nothing to do?

MR. HENLEY said, he objected to the notice proposed in the clause as being too short. The long vacation lasted three months, and occurred at the very period of the year when it was probable the Commissioners would be in action. If, therefore, the Commissioners chose to give their notice of two months at the commencement of the long vacation, when there was nobody in Oxford, it would be rather an awkward position for the colleges to be placed in. He would suggest that, instead of two months, “during term time,” or some expression of that nature, should be inserted in the clause, so as to exclude the possibility of the notice being given in the long vacation.

LORD JOHN RUSSELL said, he did not think there would be any practical difficulty in the matter.

Mr. ROUNDELL PALMER said, he considered that the expression "two-thirds of the governing body" involved some difficulty. Did it mean two-thirds absolutely, including those who were absent as well as those who were present, or two-thirds of a meeting duly convened? It was well known that Christ Church, Brasenose, and some other colleges in Oxford, were governed by very small bodies, who could not properly be intrusted with the important duty of deciding upon the reforms suggested by the Commissioners. He would, therefore, recommend that in the case of Christ Church the governing body should consist of the dean and canons, together with the graduated students, and that in the case of Brasenose and all the other colleges which had fellows, the governing bodies should consist of the heads and all the fellows.

Mr. ROBERT PHILLIMORE said, he agreed in the spirit of the observations of the hon. and learned Member for Plymouth, and would like to see the visiting tutors added to the present governing body of Christ Church.

Mr. MOWBRAY hoped that the wild proposition which the hon. and learned Member for Plymouth (Mr. R. Palmer) had made with respect to Christ Church would not be acceded to by the Government. It would include in the governing body of that college at least seventy graduated students, in addition to the dean and chapter. He would not say that it might not be advisable to add to the dean and chapter, who hitherto had managed the college in a way to place it in a high position in the University, in spite of very small endowments, a small number of the senior students engaged in the tuition and discipline of the college.

Mr. GRANVILLE VERNON said, he wished to move the insertion, after "governing bodies," of the words "and tutors."

Sir JOHN PAKINGTON said, he would like some Member of the Government to state what were the "governing bodies." He was not at all certain that the expression had any particular meaning in the University.

THE CHANCELLOR OF THE EXCHEQUER said, there was considerable difficulty connected with this portion of the clause, and the attempt to define the body to whom the exercise of this important and responsible power should be intrusted. He

would not like to adopt the course which had been suggested—namely, that of retaining here the term "governing body," and then introducing another clause to constitute the governing body to perform one act, and to be a governing body for no other purpose whatever. He did not believe that the objections to the phrase as it stood were really insurmountable, because in every case in Oxford, with the exception of the two or three which had been mentioned, there would be no difficulty in construing it. The general meaning of the governing body was in Oxford the head and fellows of the college, probationers not being included. The two most prominent cases of difficulty were Christ Church and Brasenose. With respect to the former, the definition he had given was undoubtedly an unsatisfactory one, because, not only was the number of the governing body extremely limited, but the whole of the governing body, excepting the dean, was cut off from the ordinary administration of the college. He admitted that the governing body in that case would be an imperfect instrument; but he did not think it was absolutely necessary to alter it, though, at the same time, he confessed there was ground for saying that either a portion or the whole of the graduated students ought to be joined with the dean and canons. The same observations applied to Brasenose and one or two other colleges; but the choice was between retaining the phrase "governing body," subject to those defects, and on the other hand discarding the phrase altogether, and adopting some other definition of a more general character. The mode that had occurred to him for getting rid of the difficulty was to make the governing body consist of two-thirds of the members of the foundation, being also members of Convocation in each college. With regard to the observations of the hon. and learned Member for Plymouth (Mr. R. Palmer) relative to the phrase "two-thirds," of course it would mean two-thirds of the absolute and gross number, and not two-thirds of the persons convened at any particular meeting. The function to be exercised was an important one.

Mr. LABOUCHERE said, he had heard the remarks of his right hon. Friend the Chancellor of the Exchequer with great satisfaction. Any one who valued the character of the University of Oxford, or the character of a particular college of it,

as he did, especially the great college of Christ Church, must have seen with great regret that the acceptance or rejection of measures of reform was left optional to so few members of the body. He had every respect for the dean and chapter of Christ Church, but at the same time he must say, he did not consider this body would fairly represent the college on such occasions. He would, therefore, recommend to the Government to reconsider the clause, as he did not believe that the point could be amended without some consideration.

THE CHANCELLOR OF THE EXCHEQUER said, he believed that the course most convenient for adoption was, as no one else seemed prepared with a better definition, to withdraw the clause, and, before the Bill came to be reported, the question could be determined.

MR. HEYWOOD said, as the Government was about to reconsider the clause, he would be very glad if they could come to the conclusion that three-fourths instead of two-thirds was a more just proportion of the governing body on whom to devolve the rejection of the Commissioners' ordinances.

MR. MOWBRAY said, he was struck by the remarks of the right hon. Gentleman the Member for Taunton (Mr. Labouchere), and which evidently seemed to imply that the dean and chapter of Christ Church was animated by a spirit antagonistic to reform. Now he did not think the right hon. Gentleman would have ever come to such a conclusion if he had read the correspondence which took place between that body and the noble Lord the President of the Council (Lord J. Russell); or had he remembered that the dean and chapter had, of its own accord, voluntarily made that change which the Commissioners and the noble Lord said was the only one required in that magnificent foundation—namely, the private right of nomination to tutorships—and throwing it open to the whole college.

MR. ROBERT PHILLIMORE said, he quite agreed that the dean and chapter of Christ Church had shown a spirit of reform, but, at the same time, he thought that the tutors and working staff ought to be admitted to a share in the working of the measure.

MR. HORSMAN said, he wished to put a question to the Chancellor of the Exchequer on a practical point as to the operation of the proviso. When the discussion took place as to the enabling powers, it was

pointed out that, however well disposed to reform, the fellows were precluded by stringent oaths, and if they gave them a power of veto, it was difficult for them, acting under their oaths, to refrain from exercising such veto, and so put an end to the power of the Commissioners. The general feeling of the Committee seemed to be, not to omit the proviso, but to amend it. Objecting, as he did, to the limitation of the governing body, he thought the enlargement, as proposed, a great improvement. He should like to hear the opinion of the right hon. Gentleman the Chancellor of the Exchequer on this part of the subject.

THE CHANCELLOR OF THE EXCHEQUER said, the proposal not only enabled colleges to act, but it also enabled the Commissioners to act in case the colleges were unwilling to do so. However, he was willing to admit, in adopting the clause as it stood, that they had forfeited the completeness of the measure, and he would not shut his eyes to the fact, that in consequence, in the course of two or three years, a contingency might arise which would compel the Government to come again before Parliament and direct its attention to the case of certain colleges; at the same time he did not believe that such an occurrence was likely to come about, for he felt bound to add that nothing could be more satisfactory than the genuine spirit of improvement, amounting to a spirit of emulation and competition, which had sprung up at Oxford since the progress of these discussions. If the veto were a simple veto, it was most probable that a large number under the operation of the oath would exercise that simple veto; but he did not think that any gentleman would feel that, because he had taken an oath to resist all changes that were prejudicial to education, he was thereby justified in coming forward and declaring that certain proposed changes were dangerous to the college as a place of learning. The question for him to determine would be, whether he was able, upon his conscience, to say that the changes in themselves, tried upon their own merits, were such as were likely to damage the college as a place of education.

MR. NEWDEGATE said, he rejoiced very much at the course which the discussion had taken, as it tended to show that the heads of colleges were not the opponents of learning and reform which they had once been held to be. Indeed, there

was no college which had done so much for reform as Christ Church; and that being so, he must deprecate the attempts of hon. Gentlemen to excite a spirit of jealousy against the governing body of that college—alleging at one time that they were unwilling to reform, and at another that they were bound by their oaths, and could not reform.

MR. HENLEY said, he should move that the Chairman report progress. The hon. Member for the University of Oxford (Sir W. Heathcote) had a most important Amendment to propose, which would occupy a great deal of time in its discussion; and at that late hour (twelve o'clock) it would be impossible properly to enter on its consideration.

LORD JOHN RUSSELL said, the Amendment in question had been already a great deal considered in the progress of the discussion.

MR. HENLEY: Yes, indirectly; but never directly.

MR. GRANVILLE VERNON said, he would not press his Amendment.

SIR WILLIAM HEATHCOTE said, there were some words at the end of the clause which had the effect of putting a limitation to the veto which it was intended to give to the governing body of the colleges beyond what he believed was the intention of the noble Lord to affix. He thought the discretionary power of the governing body was already sufficiently limited. As the clause was framed, it stated that if, within the period of two calendar months, two-thirds of the governing body of the college declared that such ordinances as should be made by the Commissioners would be prejudicial to the said college as a place of learning and education, then the same should not take effect. Now it might so happen that the ordinances and regulations might be prejudicial to the college in other respects than as a place of learning and education. For instance, the preamble of the Bill recognised the colleges as necessary for the advancement of religion, and the ordinances and regulations might be detrimental to them in a theological point of view. The Amendment, therefore, which he would move was, that the words "as a place of learning and education" be omitted from the clause.

Question put, "That the words proposed to be left out stand part of the Clause."

The Committee divided:—Ayes 151; Noes, 111: Majority 40.

*Mr. Newdegate*

House resumed; Committee report progress.

#### WAYS AND MEANS—SUGAR DUTIES.

MR. BOUVERIE brought up the Report of the Resolutions as to the duty upon sugar used in Breweries.

MR. DISRAELI said, that he desired to have from the Government some explanation on the subject of these Resolutions, which were introduced on the previous day without notice; that was to say, the only notice being that in the Committee of Ways and Means Resolutions would be moved, the House having had no notice what these Resolutions were about. These Resolutions, which had just been reported to the House, permitted the use of sugar in breweries upon the payment of a certain duty. Their Report was No. 3 upon the Orders of the Day; but No. 5 was a Bill, upon which the House was to go into Committee, which prohibited such use of sugar. That appeared to him to be an inconsistency which he dared say could be explained, but he thought it would facilitate the progress of public business if this explanation were given to the House before further proceeding in the matter. It appeared to him to be rather inconvenient, when a Bill prohibiting the use of sugar in breweries was so far advanced that it was printed, was in the hands of Members, and was upon the paper for the House to go into Committee upon it, that the hon. Gentleman the Secretary of the Treasury should without notice introduce at a morning sitting, Resolutions, the object of which was to carry into effect that which was exactly opposite to this Bill. He therefore thought that some explanation was required, and he wished to know why the House was to be asked to agree to Resolutions permitting the use of sugar in breweries, and then to go into Committee upon a Bill prohibiting it.

MR. J. WILSON said, that if the right hon. Gentleman had been present on the previous day he would have heard, at some length, the explanation for which he now asked. As the law now stood, sugar was permitted to be used in breweries. In consequence of the additional malt duty which had been recently imposed, the difference between the Customs duty upon sugar and the Excise duty upon malt had been considerably increased. Under these circumstances, it was at first the opinion of the Commissioners of Inland Revenue that it would not be safe to continue to

permit the use of sugar in breweries, and a clause was therefore introduced into the Bill, which had been referred to by the right hon. Gentleman, to prohibit it. Upon further inquiry, the Commissioners of Inland Revenue had satisfied themselves that if a system of licences were adopted in order that their officers might know what brewers were entitled to use sugar, the permission to use that produce in brewing might with safety be considered. In order to increase the duty, it was necessary to take a Resolution in the Committee of Ways and Means before putting it into the Bill; and the object of the Resolution which had been reported was to enable the House to add to the Bill an additional duty above that now charged upon sugar used in breweries. As a necessary consequence, the clause prohibiting the use of sugar would in Committee be struck out of the Bill, and the duty would remain as it was, modified by the addition of the new duty consequent upon the increase of the malt tax.

*Resolutions agreed to.*

#### MORNING SITTINGS.

THE ATTORNEY GENERAL having proposed that the Common Law Procedure Bill should be taken at a morning sitting,

Mr. DISRAELI said, it did not appear to him (Mr. Disraeli) that it was either convenient or necessary at this early period of the Session to have recourse to morning sittings. He observed several Bills on the paper fixed for a morning sitting, without any arrangement having been made on the subject. If they were to have morning sittings, he thought that the House should have them only after due deliberation. It was not, in his opinion, advisable to make so great a change in their mode of conducting business without a general notice being given, and a decision by the House being come to. The objections to morning sittings he had already urged—they were familiar to all. The House in the first place was debarred by a morning sitting of the presence of a great many gentlemen whose opinions would be of advantage to its deliberation. Now he had a great opinion of the gentlemen of the long robe, whose assistance was especially valuable on Committees. They, however, could not attend such sittings. Neither could the members of other professions, nor merchants. If they analysed the elements of that House, they would find that about one-sixth of the Members must necessarily be taken away if they had morn-

ing sittings. In addition to those, they would be deprived of several eminent Members who would be employed upon Committees. Another objection to a morning sitting was this, it was quite evident to all—whether they were members of professions or gentlemen at large, whose professions could not be distinctly defined, that if they had morning sittings they would come to the evening sittings with exhausted energies. He was sure that they all felt, when they had morning sittings, that their evening sittings were never of a satisfactory nature. He did not pretend to say that there might not be a state of public business, or a period of the Session, that might render those sittings highly expedient, and indeed necessary; but he would put it to the House whether the state of public business at present was such as to render a recourse to morning sittings a necessity? On the contrary, he believed that there never was a period when it was less imperative. The Government had certainly introduced a number of important measures this year; but they thought it better not to proceed with them, or circumstances had arrested them in their course. The only important measure left to them was the one they had been discussing, and from their experience this evening it was not likely that any impediments would be thrown in its course. He could not see, under the circumstances, at so early a period as the month of June, any necessity whatever for having recourse to a system against which there were so many objections. There were many reasons which rendered it desirable that the Session of the House of Commons should not be curtailed at present. When a country like ours had embarked in a war, it was a great advantage that the House of Commons should be sitting. If disasters should occur, the House of Commons would be ready to sustain and to encourage the Ministers. On the contrary, if we should have triumphs, the House of Commons would be prepared to sympathise with the Government. There might be occasions when there would be neither disasters nor triumphs. In such a case the House of Commons would stimulate any lack of spirit that might be evinced. He should not press this point, if it were a month later—if it were the month of July or August. It was, however, he considered, rather unreasonable, when there was no great pressure of business, to have recourse to a system which would deprive

the House of the presence of many valuable Members, and which, by exacting so much exertion from them generally in the early part of the day, called upon them again to come together at night, with exhausted energies, for the purpose of performing business which, under the circumstances, must necessarily be discharged in an unsatisfactory manner. He therefore opposed the proposition to fix this Bill, No. 6 on the paper, for a morning sitting. He hoped that the Government would not put him to the disagreeable task of opposing the Government on matters relating to the management of the public business; but he thought that the noble Lord the President of the Council ought to give the House the benefit of his opinion upon the subject. The noble Lord may fix some period at which morning sittings might be necessary; but he (Mr. Disraeli) hoped that upon his high authority he would not justify a recourse to a measure both unnecessary and inconvenient, and which would, as he had before stated, deprive their deliberations of the presence of a great many eminent Members.

LORD JOHN RUSSELL said, that the right hon. Gentleman appeared very much opposed to morning sittings, but he certainly did not carry his professions into practice when he was the leader of the Government in that House in 1852. He (Lord J. Russell) found that in that year morning sittings were begun as early as the 31st of May. No doubt, as the right hon. Gentleman had stated, there were inconveniences attending morning sittings, but it must be remembered that there was a balance of inconvenience. If the right hon. Gentleman was not willing to consent to morning sittings until the month of August, a great portion of the Members of that House, distinguished or undistinguished, would be absent, and there would be a very small number of Members present to perform the duty, either morning or evening, of getting through the legislative business of the House. He must say that now they had arrived at the middle of June he thought it desirable that they should have morning sittings, during which they might consider, in Committee, some important Bills. There were several Bills of great importance, and which could not cause any party excitement, waiting for consideration, and which, unless they resorted to morning sittings, could not be discussed until the end of July or the beginning of August. He would suggest

Mr. Disraeli

that the House should sit at twelve o'clock on Thursday se'nnight to consider the Common Law Procedure Bill. There were, however, several other Bills with respect to which he thought it desirable that there should be morning sittings. One of them was under the charge of his right hon. and learned Friend the Lord Advocate, who wished at twelve o'clock to-morrow to proceed with that measure. There was also another measure of considerable importance, which the hon. Member for Dorsetshire (Mr. Ker Seymour) wished to bring forward at a morning sitting. There were, besides, Bills with regard to Scotland and Ireland, and also with reference to the Mercantile Marine, which, he thought, might be discussed without inconvenience at early sittings of the House. He would, therefore, propose that the Committee on the Common Law Procedure Bill should be taken on Thursday se'nnight at twelve o'clock.

MR. DISRAELI said, the noble Lord had reminded him that there had been morning sittings at the end of May during the Session in which he (Mr. Disraeli) had had the honour of acting as leader of the House. But the morning sittings had been taken at that early period during that Session in consequence of the desire manifested by the noble Lord and his party that there should be, at as early a time as possible, a dissolution of Parliament. He should have thought that that would have been the last precedent to which the noble Lord would have appealed in favour of morning sittings.

MR. MALINS said, that the Common Law Procedure Bill was a measure which would introduce most important legal changes; and as he believed that it could not be adequately considered by the House at a sitting from which lawyers must be absent, he trusted that the noble Lord would not fix it for a morning sitting. He must express a similar hope with respect to the Mortmain Bill.

THE ATTORNEY GENERAL said, that he despaired of being able to obtain a proper consideration of the technical details of the Criminal Law Procedure Bill at an evening sitting; and as the measure was unquestionably one of extreme importance in a legal point of view, he trusted that his hon. and learned Friends in that House would be prepared to make any sacrifice that might be necessary for the purpose of enabling them to give one day to its consideration.

COLONEL BLAIR said, he hoped that the Valuation (Scotland) Bill would not be taken as the first measure at the morning sitting to-morrow, as it was one of such importance to Scotch Members that it was very desirable they should all be able to assist at its discussion.

THE LORD ADVOCATE said, he was afraid he could not give the assurance which the hon. and gallant Member sought to obtain. It was because the Valuation (Scotland) Bill was an important measure that he had thought proper to reserve its consideration for a morning sitting.

MR. WALPOLE said, that with regard to what had fallen from his hon. and learned Friend the Attorney General as to members of the legal profession making some sacrifice to be present at the discussion of a measure of great importance to the profession, it ought to be remembered that the first duty of a lawyer was towards his client, and the administration of justice ought not to be stopped on account of his absence. With regard to morning sittings generally, he believed that the prolonged attendance of hon. Members from twelve o'clock in the day to one or two o'clock next morning was prejudicial to good legislation.

*Committee deferred till Thursday, 29th June, at Twelve o'clock.*

#### REGISTRATION OF BIRTHS, &c. (SCOTLAND) BILL—MORNING SITTINGS.

MR. DISRAELI said, he should move that the Order of the Day for the reading a second time, at twelve o'clock to-morrow, the Registration of Births (Scotland) Bill, be discharged.

*Motion made, and Question proposed,*

"That the Order for the House to resolve itself into a Committee to-morrow at Twelve o'clock, on the Registration of Births, &c. (Scotland) Bill, be now read, for the purpose of being postponed."

LORD JOHN RUSSELL said, he was somewhat surprised, after the opinion which the House seemed to entertain on the subject of morning sittings, that the right hon. Gentleman should make this proposition now. He had already mentioned the Bills which it was intended to proceed with to-morrow, and not a word of objection was raised.

MR. STIRLING said, if the right hon. Gentleman (Mr. Disraeli) would divide the House, the Scotch Members generally would support him.

THE LORD ADVOCATE said, it had been understood by the Scotch Members

for the past ten days that this Bill would come on to-morrow, at twelve o'clock.

LORD DUDLEY STUART said, it was rather unfortunate that the opinion should go forth that the Government were anxious to close Parliament hastily at this particular crisis. The suspicion was abroad, however, that the sitting of Parliament at the present moment was inconvenient to the Government—that, in fact, it would be more convenient to noble Lords and right hon. Gentlemen on the Treasury bench if Parliament were prorogued, and the discussion of certain unpleasant questions altogether avoided. He must say that what had fallen from the Treasury bench that evening was rather calculated to give strength to that suspicion. But as the propriety of morning sittings had already been discussed and decided upon, it was hardly fair for the right hon. Gentleman to reopen that question by moving that the Order of the Day for reading this particular Bill to-morrow be discharged.

MR. DISRAELI said, it would have been quite impossible for him to have divided the House against the previous Motion of the Lord President (Lord J. Russell). That noble Lord had suggested that, in a fortnight's time, it was his opinion recourse should be had to morning sittings; and though he (Mr. Disraeli) should be unwilling to pledge himself with regard to the subject, still a fortnight was a considerable time, and, in deference to the opinion of the leader of the House, he was not prepared to divide on the question; probably, indeed, if called upon to express an opinion respecting it, he should agree to the proposition of the noble Lord. As to the noble Lord being surprised that he (Mr. Disraeli) should now rise, after the feeling manifested by the House, to propose the Motion he had just made with reference to proceeding with public business, not on Thursday so nigh, but to-morrow at noon, in fact he rather ought to say to-day at noon, it being now nearly two o'clock, he begged to tell the noble Lord that he would not have been surprised had he been present the last time the subject was discussed, on which occasion the feeling of the House was quite opposed to the course the noble Lord now recommended, and seemed to wish the House to sanction. For on that occasion the House approved of the withdrawal of the Orders that stood on the paper for twelve o'clock on Tuesday and Thursday, and he (Mr. Disraeli) was urged by many of his Friends to move for

the discharge of this very Bill also. Why did he not comply with their request, when a majority would no doubt have given him their support? Simply because he thought the noble Lord the Lord President would be in his seat in the interval, and that the House would be able to come to a fairer and more satisfactory conclusion on the subject in his presence than by snatching a decision in that way. The noble Lord's taunt was not, therefore, a justifiable one. As a general rule, he was of opinion that it was inexpedient to have recourse to morning sittings so early in the Session, and particularly in this instance, and against the opinion of the Scotch Members, to call upon them to meet at twelve o'clock to-morrow.

THE CHANCELLOR OF THE EXCHEQUER said, that the right hon. Gentleman stated that he was quite warranted in making the present Motion to discharge the Order for to-morrow, on the ground that there had been no previous question which enabled him to raise the present issue except the Motion for fixing the Common Law Procedure Bill for Thursday se'nnight. But it was quite right that he (the Chancellor of the Exchequer) should inform the House that the right hon. Gentleman was entirely in error, for since the discussion which took place with respect to the Common Law Procedure Bill, the Drainage of Lands Bill had been fixed for Thursday next. [Mr. DISRAELI: Thursday se'nnight.] Thursday next, and not only so, but the Towns Improvement (Ireland) Bill had been fixed for Tuesday next. These being the facts, the right hon. Gentleman now proposed again to raise the question of morning sittings, though a number of Members had left the House in the belief that it was settled. He certainly hoped that the House would not support him in the attempt.

Question put.

The House divided:—Ayes 58; Noes 131; Majority 73.

The House adjourned at a quarter before Two o'clock.

## HOUSE OF LORDS,

Friday, June 16, 1854.

MINUTES.] PUBLIC BILLS.—2<sup>a</sup> Customs Duties. Reported.—Excise Duties.

3<sup>a</sup> High Treason (Ireland).

Royal Assent—Consolidated Fund (£8,000,000) (No. 2); Exchequer Bonds (£6,000,000); Income Tax (No. 2); Industrial and Provident Societies.

Mr. Disraeli

## THE MISCELLANEOUS ESTIMATES.

THE EARL OF ELLENBOROUGH, in moving for returns relating to the Miscellaneous Estimates from 1838 to 1853, said: I believe that there is no objection to the return which I propose to move for, inasmuch as it would not occupy a clerk more than a day to make it out. It is merely a return of the total sums voted under each head in each different class of Miscellaneous Estimates during the period over which the return runs—namely, from 1838 to 1853, which has been on your Lordships' table for a considerable number of weeks. But in moving for that return, I wish to draw your Lordships' attention as shortly as I can to some of the details of the charges in these Miscellaneous Estimates. I think it not undesirable, at the commencement of a war which will require that we should exercise great economy, that we should look back a little at the expenditure under the head of Miscellaneous Estimates in former years, that we should see wherein and how we have exceeded former charges, and that we should consider, also, wherein and how we can diminish as much as possible the charges which have recently been voted. If an individual does not practise this system, he will most infallibly be ruined; and it certainly would be convenient that the State should proceed upon the same principle, should act with the same prudence, and from time to time should look back at former charges, and should consider whether there has not been an unnecessary expense, which for the future can be avoided. I find that the sum voted under various heads as the Miscellaneous Estimates in 1838 was 2,545,000*l.*, and that in 1853 it amounted to 4,802,000*l.*; so that at first it would appear that the excess of charge last year, over the charge in 1838, was no less than 2,257,000*l.*; but, no doubt, that excess is open to various adjustments, and is subject to diminution by the rejection of certain charges from the Estimates of 1853 which did not exist in 1838. Since 1838 the charge for Royal parks and gardens has been thrown upon the Miscellaneous Estimates, having formerly been paid out of the land revenue. The expenses of the Commissioners of Works and Public Buildings and of Woods and Forests were also paid, previous to 1852, out of the land revenue, but are now included in the Miscellaneous Estimates; while the expenses of the auditors of unions and of schoolmasters, as well as

those of prosecutions and the maintenance of prisoners, are now transferred from the county rate. There is another charge which should likewise be excluded from our consideration in comparing the expenditure of 1853 with that of 1838—I mean that for harbours of refuge and other harbours; and of the expediency of that expenditure there can be no doubt. There is also a charge for winding up the Merchant Seamen's Fund, which falls on the year 1853, and which it would not be fair to compare with the charges in 1838. All these charges taken together—I will not trouble your Lordships with the details of all of them—amount to 775,925*l.*, which is to be deducted from the sum I stated, 2,256,000*l.*; so that the total net excess, after discharging from the account all those items to which I have referred, of 1853 over 1838, is 1,480,000*l.* Now, I do think that the amount of that sum is such as to make it well deserving of your Lordships' consideration, and that it is important that we should see of what this great excess is composed. I find that there is a difference under the head of public works and buildings, after deducting the charge for the Royal parks and gardens, and harbours, of 198,000*l.*, and under the head of salaries of public departments, after deducting those for the Commissioners of Works and for the poor law unions, there is an increase of 179,000*l.* There is another charge in which the increase since 1838 is very great indeed, and that is the charge for education, the increase in which amounts to 362,000*l.* Those who are desirous of having the public money expended in the education of the people have held out hopes that the moral condition of the people would by that expenditure be materially improved. I confess that I have always entertained very great doubts upon that subject, and upon this ground, that, as long as we remain under that dispensation of Providence which requires that man should earn his bread by the labour of his hands, it is essential that the children of the poor should, at a very early age, leave their schools and proceed to work for their daily bread. In point of fact, the son of the labourer leaves school in order to maintain himself and his family at about the age at which the son of the gentleman goes to school, and at a somewhat later period the daughter of the labourer leaves school for the purpose of going into service; and I believe it is utterly impossible, during the short time

that they can attend school, to give them that moral tuition which can alone be the foundation of any great improvement in their character. Further than that, I cannot but apprehend that we are mistaken in supposing that all the education which is provided through the administration of public funds is in addition to the education that previously existed. I believe, on the contrary, that that education has to a very great extent supplanted the education which was before afforded in private establishments and given through the private charity of individuals, who maintained schools and looked after the condition and the progress of the children taught in those schools; and I cannot but apprehend that, in point of fact, the public establishments so created, in which education is given at the public expense, although the education may be better than that which was before given in private establishments and by private charity, are not accompanied by those great social advantages which resulted under the former system, from the constant presence of those by whom those schools were maintained, and their constant supervision over the conduct and progress of the children. But, whether my apprehensions are well founded or not, it is at least certain that the result which was anticipated has not been accomplished; and I regret to have to state to your Lordships that, while we expended in the last year 362,000*l.* more than in 1838, for the purpose of making the people better, we have been obliged to expend 629,000*l.* more for the purpose of coercing them—I mean in defraying the expenses of prisons and transportation. The increase of the expenses of prisons in 1853 over 1838 is not less than 585,000*l.*, and a further increase will be required for this year of not less than 126,000*l.*, so that the total charge on account of the control that is exercised over criminals in prison, and by means of transportation, is greater now by 711,000*l.* than it was in 1838. Now, I think that this is a subject which deserves the very serious consideration of the Government and of Parliament. If the state of the law is such that it has led to this enormous increase of expenditure for the purpose of punishing the criminal portion of the population, it surely becomes worth our while to consider whether we have correctly administered the law, and whether we have been successful in our selection of the secondary punishments by which crime is to be punished, and, if pos-

sible, repressed. It appears to me that it might be worth our while to consider whether it might not be expedient to make it less desirable, than it appears to have been considered in many cases, to commit offences for the purpose of obtaining in a prison advantages and conveniences which cannot be obtained by the honest man in his own dwelling; but, above all, I should think it would be worth the while of Parliament to consider whether it is not desirable to establish, under the direct management of the Government throughout the country, from one end of it to the other, a uniform and efficient system of police, for the purpose of preventing and deterring from crime by the certainty of punishment. I understand that a measure has been introduced into the other House of Parliament which has, to a certain extent, that object. I have not read the Bill, but I have seen some statement of its provisions, and if that statement be correct—if it be intended to place the police in each county under the management of a committee of magistrates—I fear that the measure will be absolutely inadequate for the object for which it is intended, and that it will lead to no valuable results. What I would venture to suggest is, that, as at different periods various charges have been withdrawn from the county rates in order to afford some illusory advantage or other to the agriculturists, who imagined themselves to be particularly pressed by those rates, that those charges should be thrown back upon the county rates, to which they properly belong, and that, on the other hand, the whole expense of the rural police should be borne, as it ought to be borne, by the public. It is a public object, that there should be throughout the country one uniform system of police, and I think it would be most highly desirable, and that it is quite essential with a view to the efficiency of that police, that the number to be established in each county should be regulated by the opinion of the Secretary of State who is charged with the care of the internal peace of the country, and that it should not be left to the occasional liberality, or, what I fear would be more usual, the parsimony of the magistrates at quarter sessions, to determine what should be the number of police appropriated to their own particular district. I am certain that by this means only will efficiency be obtained. Having offered this suggestion, I will now call your Lordships' attention to another

*The Earl of Ellenborough*

and an almost entirely new charge since 1838, which begins in 1840 with a very small sum, and which has been growing of late years, and more especially within the last two years, to an enormous amount; I allude to the charges for what are called the Museum of Economic Geology and the Department of Practical Art, under the head of the Board of Trade. These two items of charge appeared for the first time in 1839, when the expenses of the Department of Practical Art amounted to 1,300*l.* and those of the Museum of Economic Geology in the following year amounted to 2,800*l.* After that Sir Robert Peel came into office. There was never any Minister of this country who more loved art, or had a better taste for it, than Sir Robert Peel; he liked the society of scientific men and of men of art, and, had he not been bound by those just principles of public economy by which he was governed in all things, I am sure there could have been no one more willing to grant public money for the encouragement of arts and sciences; but I apprehend that he was controlled by views of public policy and public duty, and did not therefore, during the whole period of his Government, materially increase the amount of the grant originally proposed. These two establishments were united in 1853, the expense of the school of Practical Art having risen in 1852 to upwards of 17,000*l.* from 1,300*l.*, and that of the Geological Establishment very nearly to 15,000*l.* from its original amount of 2,800*l.* When the two departments were united, the charge for them, instead of amounting, as might have been expected, to 32,000*l.* or 33,000*l.*, was increased to 44,476*l.*, and in this year, 1854, when it was above all things most essential to practise economy—when there were such large demands for matters actually required for the public safety, an addition of 29,000*l.* has been made to this charge; so that in the present year we are to pay 73,000*l.* for that which amounted to only 4,100*l.* in 1840. This is a subject that really ought to have received the attention of Her Majesty's Ministers. When we talk about it being desirable to encourage art and science, I should like to know whether it is possible for any one, by any administration whatever of public funds, to create genius. You cannot create genius. You can create a large amount of educated mediocrity; you can cover the country with large buildings in bad taste, you can produce bad pictures and bad statues; but you

cannot have genius for your money. That is a thing which cannot be obtained in such a manner, and you are, therefore, really throwing away a large amount of public money for a purpose which money cannot obtain. The noble Earl the late President of the Council is not present, and I will not, therefore, go into any further details as to what has taken place with regard to these items; but there is one item to which I do think that it is necessary to call the attention of the Government, and that is the enormous increase in the expense of persons employed under the Poor Law Commission. In 1838 the expense of the Commission amounted to 54,000*l.*, while in the last year, although it was then certainly larger than it had been in the other years, it amounted to no less than 88,000*l.* Now, however desirable it may be that there should be a constant supervision over the action of poor law guardians, it is a matter worthy the consideration of the Government whether that inspection could not be afforded at a somewhat smaller expense than that of 88,000*l.*, which is an increase of 44,000*l.* on the charge in 1839. With regard to the House in which the House of Commons and ourselves transact public business, I have to state to your Lordships that the sum which has been expended upon this House in the period now under review, from 1838 to 1853, is 1,690,000*l.*, and that expense still continues. The very last portion of the building, and the most beautiful one, which is now in progress of erection near the entrance to the House, is the most expensive one that has yet been erected; more than that, it is so covered with elaborate workmanship that its beauty will remain only for a very short period, probably not more than two or three years after its completion. I confess that I should greatly have preferred a severer and more solid style of architecture—one more in keeping with the purpose for which we meet in this place, and which should have stamped upon it the appearance of that eternity which we desire that our institutions should possess. I cannot quit the subject of the House without calling your Lordships' attention to the last curiosity with which we have been presented—that window which is now before you [namely, a window on the right of the Throne]. We are, it appears, to have ninety-six such panes fitted into the windows of this house. What they may have cost I know not; but I heartily wish, for the credit of art in

this country, that no Museum of Practical Art had ever existed to cover us with such deformities; and now we have a specimen before us of a new invention, which I suppose is to be substituted in all the windows for what we have now the misfortune to look upon. But where is the estimate for the expense of the alteration? Who is responsible for it? Who are the authors of its adoption? I really cannot venture to calculate the expense which the public may be called upon to pay, but I really do not think that any individual could alter the windows of the House in the manner proposed for less than 30,000*l.*, and I feel satisfied that the expense to the public would undoubtedly be more. I want to know under whose responsibility it was that such heavy and unnecessary expense has been incurred? Where are the estimates for the alteration? Who gave the order for the adoption of the deformity? I trust that the public will thoroughly understand that it is not by the desire of the individuals who sit in this House that these alterations are made; that we do not desire to transact our business in a room disfigured by gilding or ornaments in bad taste and at enormous cost, but that we were satisfied with the plain House in which our ancestors transacted business, and desired nothing more, and, therefore, that we are not responsible for this enormous expenditure and waste of the public money. Who may be responsible I know not. I must also call your Lordships' attention to an item of expenditure which appears very harmless, but, in the course of the period to which I have referred, the expenditure upon the British Museum and the buildings has not been less than 595,000*l.*; and whereas in former years the expense of management amounted only to 27,469*l.*, it now amounts to 55,840*l.*, so that the expense of the establishment at the present moment exceeds, I believe, the expense of the departments of all but one of the Secretaries of State. I will now pass to another head of expenditure. The expenditure for the repression and punishment of crime presents some curious results. We are told that education is to produce morality—of course, moral people will not commit offences, and we have reason to believe that, of all the portions of the British empire, that in which education has made the greatest progress, and which ought, therefore, to be the most moral country, is that to which the noble Duke (the Duke of Argyll) belongs. But,

in fact, the cost of correcting bad Scotchmen has increased 100 per cent; for whereas in 1838 it was 53,000*l.*, it now amounts to 107,000*l.* We were also told that on the other side of the Channel crime was a matter of indifference, and yet people there have been improving almost as fast as the Scotch have been deteriorating; for, whereas the expenses of criminals in Ireland were formerly 68,000*l.*, they are now reduced to 56,000*l.*—so that the Irish have improved 18 per cent, while the Scotch have deteriorated 100 per cent. I must now call your Lordships' attention to the enormous charge to which I have already adverted, for prisons and transportation. In 1853 that charge amounted to 898,000*l.*; in this year there is an addition of 126,000*l.*—so that in the present year, 1854, the charge for the maintenance of prisoners and transportation amounts to as much as 1,024,000*l.* The total amount of charge under the same head in 1838 was 313,000*l.*, so that the increase under this head amounted to as much as 711,000*l.* I think it necessary to call attention to the enormous charges connected with the last Census. In 1841 the charge on this account was 23,500*l.*, and then all the information that any reasonable man could desire was given. The charge for the last Census amounted to 170,000*l.*, being an increase of not less than 146,500*l.* This enormous increase was made in order to gratify the curiosity of about twenty persons, who are desirous of obtaining a mass of statistical information which is of no use to anybody. This is a charge which ought never to have been incurred, and I trust it will not be repeated. I have now gone through the comparison of the years 1838 and 1853, and I will now draw attention to the charges proposed by Ministers for 1854. The present head of the Government was brought up in the school of the Duke of Wellington and Sir Robert Peel, two remarkably economical Ministers. Before him is a great war, of which we have seen the commencement, but may not live to see the end. Under these circumstances, one would have supposed that the noble Earl would have looked with the greatest anxiety at the Estimates in all departments, with the view of reducing the public expenditure wherever he could. This is the result of the examination which, I must presume, the noble Earl prosecuted. I find, under the head of public works and buildings, an increase of 104,432*l.*; under the head of salaries in the

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public departments an increase of 61,371*l.*; under the head of law and justice an increase of 97,423*l.*; under the head of education, science, and art, an increase of 124,389*l.*; under the head of superannuations and charities an increase of 3,351*l.*; under the head of special and temporary services an increase of 215,626*l.* These sums amount to 506,000*l.*; from which I deduct a decrease in the Colonial Department of 13,861*l.*, leaving the total excess 492,731*l.* From this I also deduct certain sums of the same kind as those which I deducted from the excess of 1853; these sums amount to 110,000*l.*, and then there still remains an increase of 382,000*l.* on the Miscellaneous Estimates of this first year of war, and a total increase this year, as compared with 1838—after making all the deductions I have before alluded to—of 1,862,000*l.* I must call attention to some more of the items on which an increase is apparent. Under the head of printing and stationery there is an increase of 29,000*l.*; under the head of science and art there is an increase, as I have already stated, of 29,000*l.*; there is an increase of 126,000*l.* for prisons and transportation; there is an increase on the British Museum which is altogether unnecessary, because it might have been postponed, of 78,442*l.*; there is 140,000*l.* for the purchase of Burlington House, and 87,000*l.* for the purchase of land at Kensington Gore. These charges for the British Museum, Burlington House land at Kensington Gore, and the increase in the department of science and art, which are either utterly unnecessary or might have been postponed, amount to 274,471*l.* I have made a calculation by which I find that the Government have thus thrown away this year a sum which would have purchased ninety-eight steam gunboats, every one drawing four feet of water, and carrying a 68-pounder, by which, if sent to the Black Sea, we might have commanded the Sea of Azof, and, if sent to the Baltic, might have taken Sweaborg and destroyed Cronstadt. Economical considerations prevented you from buying or building vessels of this description, by which alone the work of the war can be done, and yet you have, on the items which I have read, thrown away money on trifling or ornamental articles enough to have covered all the expense. The war on which we have entered is one which promises no decisive success at an early period. No man could be more willing

than myself that we should embark in the war, because I believe it to be just, necessary, and politic; but its objects are more obvious to statesmen than to the people generally. We have engaged in the war for the purpose of preventing Russia from possessing the Bosphorus and the Dardanelles, and in order to redress the changes in the balance of power in Europe which have taken place during the last forty years. These are our statesmen's objects in the war, but they are not objects visible to the people—they are not the objects which have induced the people to coincide and co-operate with the Government in the war. What the people see is a great wrong done by a powerful State to its unoffending neighbour, and they are willing to assist the Government in carrying on the war for the purpose of redressing the wrong, in the same spirit in which they would endeavour to redress a similar wrong done to an individual. But if the expenditure should increase—as it must, because our present establishments are insufficient to terminate the war with success—if the pressure of taxation should be more severely felt—as it must if the war should last for many years, as it may—and if the contest should not be characterised by brilliant and decisive successes from time to time to animate the people, can we expect that their constancy will be maintained? Is it reasonable to suppose that throughout the war you will have the same support from the people as you have now? I cannot believe it, and for that reason I would impress on the Government the necessity of economy. You must show the people that you do not engage in unnecessary expense—that you are doing everything in your power to promote the efficiency of the public service—and that you save all the money in your power by rejecting matters which are not absolutely necessary, and postponing those which are not immediately required. Show the people that you call upon them to pay taxes for the sole purpose of enabling the Government to carry on the war with energy and success. Depend upon it the people of this country must be changed indeed if they can see, at the same time, inefficiency in military operations and want of economy in the disposal of the public money. The noble Earl concluded by *moving*—

“That there be laid before this House, Return of the Total Sum granted for Miscellaneous Services, under each of the following Heads in each

Class, from 1838 to 1853, both inclusive:—  
1. Public Works and Buildings; 2. Salaries, &c., Public Departments; 3. Law and Justice; 4. Education, Science, and Art; 5. Colonial and Consular Services; 6. Superannuations and Charities; 7. Special and Temporary Objects.”

THE DUKE OF NEWCASTLE said, he regretted that his noble Friend at the head of the Government and his noble Friend the Chancellor of the Duchy of Lancaster, who generally attended to financial business in this House, were unavoidably absent on this occasion, since they would have been able to answer more fully than he could do the statements of the noble Earl; although, looking to the notice which the noble Earl placed upon the paper—which was merely for returns—no one could have anticipated that he meant this evening to make an attack on the Miscellaneous Estimates of successive Governments during the last twenty years. When he saw the noble Earl's notice, he supposed that he was about to move for some returns to complete those which he moved for about seven weeks ago, and that he would enter into no discussion until he had obtained all the information he desired. Even if his noble Friends were present, it would have been utterly impossible for them to give a proper answer to the noble Earl's statement, and he thought, therefore, he had a right to complain of the course adopted by the noble Earl, as calculated to take, not only the Government, but the country, by surprise. Whether the Government would suffer any discredit thereby, he knew not; but he must confess his inability to answer off-hand statements which it had taken the noble Earl six weeks to get up, and they must of necessity remain unanswered; indeed so many alterations had been made since 1838 in the mode of keeping the public accounts, that nothing but the labours of a Select Committee would suffice to place the matter clearly and distinctly before their Lordships. Some of the items of which the noble Earl composed his sum total have been introduced into the Estimates since 1838, and ought not, therefore, to have entered into a comparison with the Estimates of this year. One of these was the charge for the new Houses of Parliament; there was no charge under that head in the Estimates of 1838.

THE EARL OF ELLENBOROUGH said, there was; the sum charged in the Estimates of 1838 was 100,000*l*.

THE DUKE OF NEWCASTLE: The apparent increase in the Estimates could,

in some instances, be accounted for by the changes which had taken place in the mode of keeping the public accounts. That was the case as regarded the Royal parks.

THE EARL OF ELLENBOROUGH said, he had struck that item out of his calculation altogether.

THE DUKE OF NEWCASTLE wished the noble Earl would not interrupt. His task in replying to the noble Earl was sufficiently difficult, even if allowed to make his observations without interruption. One of the items of increase to which special objection had been taken by the noble Earl was that for education, and he did not think that their Lordships would agree with the noble Earl in the disparaging remarks which he made on the propriety of extending education throughout the country.

THE EARL OF ELLENBOROUGH said, he had not disparaged the spread of education.

THE DUKE OF NEWCASTLE appealed to their Lordships whether he was not correct, and whether they ever heard any noble Lord make a more studied attack upon education than the noble Earl had done. He not only objected to the increase of the sums expended, but expressed himself as actually adverse to the progress of education. It might be true that the children of persons employed in labour, particularly in the agricultural districts, were removed at an early age from school; he (the Duke of Newcastle) thought that it was far better that they should be educated even up to fourteen years of age, rather than that they should not be educated at all. With respect to the conclusion which the noble Earl had drawn from the sums expended on education and crime respectively, he believed that if they had been fairly dealt with, the result shown would have been just the reverse. There was no doubt that concurrently with the increase of education there had gone on an improvement in the management of our prisons, which had led to a largely increased expenditure. The whole system with respect to prisons and transportation had been greatly improved, and those improvements could certainly not have been effected without considerable increase in the expenditure. He believed that the returns, correctly stated, would show that the increase of crime had not been in proportion to the increase of population, and the number of offences were not so high as they would have been had they not expended the money they had done for the purposes of

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education. He agreed with the noble Earl that the police of the country was not in a satisfactory state, and that the whole system of the county constabulary required revision. Referring to the expenditure under the head of art and science, the noble Earl said correctly that they could not promote art, properly so called, to any material extent, by a large expenditure of public money. He (the Duke of Newcastle) would never attempt to foster art by any such means. But the institutions to which the noble Earl referred were not for the promotion of art, so called, the object of which was more to please the eye and elevate the mind; but they were institutions of a practical character. The Museum of Practical Geology was one by means of which, he had no hesitation in saying, through the information which it had diffused, the wealth of the country had been greatly increased, and a very large and foolish expenditure of money had been averted. It was known that whilst in other countries industry had been fostered, and good taste promoted, we had been deficient, and our fabrics had failed, because we had neglected to avail ourselves of the advantages within our reach. His noble Friend denied that he meant to cast any reflection as to the construction of the two Houses of Parliament; but he, at any rate, referred to the character of these buildings, and to the large expenditure that had been made upon them. There was no doubt with regard to that fact; but let him ask him whether he might not deduce from that circumstance that those who indulge in the lavish expenditure of the public money of this country are not always Chancellors of the Exchequer or First Lords of the Treasury, but are sometimes the Members of the two Houses of Parliament themselves? These buildings were a most flagrant instance of that truth. Condemn the buildings if you will, —admire them if you like; but, whatever you do, bear in mind that, from the first year up to the present day, the management and control as well as the expenditure connected with the new Houses of Parliament had been taken out of the ordinary channel, and had been assumed by Committees of the House of Commons and the House of Lords. His noble Friend had made some amusing remarks respecting the changes which had taken place in the windows of their Lordships' House, and pointed out the enormities that had been substituted for what was before plain and

suitable for the purpose of giving light. He was not inclined to disagree with his noble Friend in that matter, but really he did not think the Chancellor of the Exchequer was the person who ought to be called to the bar to answer for the expenditure of the public money on account of those windows; but rather, the person who should be answerable was a noble Marquess who was not at present in the House (the Marquess of Clanricarde). For, what did the noble Marquess do last Session? He moved for a Committee last Session to inquire into the lighting and ventilating of the House, in order to see how a little more money could be spent on those objects; and what did he do the other day? Finding, last year, that they would not act upon his suggestion, but were desirous of letting well alone, believing, as they did upon the whole, that the House was a tolerably comfortable one, although there might be ground for some small complaint with regard to ventilation, but not with respect to light—the noble Marquess at the beginning of the present Session moved for the appointment of another Committee upon the subject, and insisted that fresh experiments should be made. When, therefore, his noble Friend complained of the large amount of expenditure, he asked how he could say that the Government or anybody was responsible, except the two Houses of Parliament themselves, by whose Committee that expenditure had been incurred? He admitted that the expenditure upon these Houses had been very enormous, but, if it was made a question of taste, he had no hesitation in saying that, when the present generation of their Lordships had passed away, the name of Sir Charles Barry as a man of genius and as an architect would be classed with those of the greatest ornaments of our country in the kindred branches of art. He confessed he did not like to hear a man of eminence and high character like Sir Charles Barry condemned for what certainly had not been his fault, but for which their Lordships and the House of Commons were alone responsible. The noble Earl then went to another branch of public expenditure, namely, that on account of prisons in Scotland and Ireland, and observed that vice in Scotland must have greatly increased, while in Ireland it must have diminished, seeing that the expenditure for taking care of prisoners in Scotland was greater, by 100 per cent, than at a former period, while less had been expended for a similar purpose in

Ireland. But if his noble Friend would deal with this question fairly, he believed he would find that he was in no way justified in drawing such a conclusion, for it was a fact, that, within a few years nearly the whole of the prisons in Scotland had been rebuilt, and large sums expended in the improvement of those that were bad and defective. It was, therefore, most unfair to infer that this expenditure had been caused by an increase of crime. Upon that ground he thought the country had a right to complain of his noble Friend in not giving the Government an opportunity of coming prepared to answer all these questions, instead of creating impressions of a most unfavourable and ungrounded character, without any means being afforded to remove them. But, as regarded this very question of the expense of prisons, his noble Friend had entirely lost sight of and forgotten—for he was sure he would not unfairly suppress the fact—that a very large proportion indeed of the sum of 711,000*l.*, which he stated to be the difference between the expenditure in 1838 and 1854 on account of prisons, had not arisen on account of any increase of crime, but was an apparent increase only by reason of a change in the mode of making out the Estimates—because a great many of the charges which now appear under the head of prisons were previously included in other Estimates. Unless he was greatly mistaken, the Navy Estimates formerly bore the charge, under the head of transportation, which were now placed under the Miscellaneous Estimates. He said, therefore, that it was exceedingly unfair, without stating that fact, to put the whole of this charge down as an additional burden on the country, when the truth was, that one branch of expenditure is relieved while another is increased. But he would not pretend to go into these complicated Estimates in detail. If the Chancellor of the Exchequer himself were a Member of your Lordships' House, it would be impossible for him to defend the Estimates in a satisfactory manner through the mere medium of a speech, in consequence of the many changes that have been made in them;—for those changes have so far produced a complication in this sheet of paper as to render it perfectly impossible for his noble Friend to deal with it fairly and justly without going into a full investigation of the whole Estimates. The last topic referred to by his noble Friend was the Census of 1851.

He said that the Census of 1841 cost 23,000*l.*, whereas the Census of 1851 had enormously increased. But was it not an undeniable fact that the Census of 1851 had furnished considerably more information than the Census of 1841? And yet he believed that so anxious was the public for still further statistical information, that before the year 1861 comes round, the Government would be called upon to make very extended investigations, even though at a considerably increased expenditure. Very possibly it may be my noble Friend's individual opinion that the additional information given by the Census of 1851 was not worth having, and that the expenditure ought not to have been increased; but he (the Duke of Newcastle) was certain that the country would soon say that we ought to have more information than we had yet acquired. He had thus replied to those points of his noble Friend's speech regarding which he happened at the moment to be acquainted, it being impossible for him to go in succession through all the topics; having little anticipated that his noble Friend was about to bring this bill of indictment against the financial policy, not only of the present Government, but of all the Governments that have existed since the year 1838. As regarded the Motion of his noble Friend, of course the Government would not have the slightest objection to give the information he desired, though he believed he had moved for it more as a pivot on which to turn his speech than for the purpose of obtaining information, since it would afford him very little more information than he had already obtained. But, while he protested against the course which his noble Friend had taken, in not having given any notice of his intention to enter upon this subject, he came to the same conclusion with his noble Friend—namely, that it was the bounden duty of the Government, not in time of war only, but at all times, to economise the public money. He was certain, as regarded every item of expenditure in the present Estimates in which there had been any real increase, that increase had been called for by the exigency of the public service. He could assure his noble Friend that while, in the present year, economy with efficiency had been consulted in the Estimates, so, in future Sessions, every attempt would be made to decrease those Estimates. At the same time, he should be misleading their Lordships if he were to state that he believed, in the present

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state of the country, with an enlarged commerce, and with an increased expenditure demanded by a war of a most national description and of the greatest possible importance, that there was any great probability of reducing to any large extent the present expenditure of the country. But if ever there was a time when economy should be observed by the Government in every possible department, he agreed with his noble Friend it was at a time of war, when the country was liable to be pressed by still further demands for the purpose of carrying on that war. He must apologise to their Lordships for the very inadequate manner in which he had replied to the speech of the noble Earl. He had by no means pretended to give a complete explanation of all the points adverted to by his noble Friend; but, if he thought fit on any future occasion to give a formal notice of a Motion on the subject, he was perfectly confident that his noble Friend at the head of the Treasury, and his noble Friend who took charge, on behalf of the Government, of financial measures in this House, would both be in their places to supply any information the noble Earl might require, and to justify the whole course of financial policy which the Government had pursued.

LORD BROUGHAM said, he believed that there was but one feeling prevailing on all sides of their Lordships' House at the present moment, and that was, how entirely unnecessary was the apology of the noble Duke for the manner in which he had just performed the duty that had devolved upon him. After no very short Parliamentary experience, he did not remember seeing any Minister placed in a position of greater difficulty than that in which his noble Friend had been placed by the very able and not unprepared attack of the noble Earl. He had never seen a Minister placed in a situation of more difficulty, and he had never seen one extricate himself more admirably from the difficulties of that situation. It was not his intention to follow the noble Earl nor the noble Duke through the details of this somewhat complicated and certainly varied branch of finance. He rose to enter his protest against the conclusion drawn—he feared, somewhat rashly drawn—from certain matters of facts in the tables to which he referred, upon a subject of great moment—namely, the subject of national education. According to his noble Friend, there was nothing more vain than the notion of diffusing instruction among the

people with a view to the improvement of their character, because, said he, it only ended in worsening instead of improving the morals of the people. Really, if he wanted an illustration of how dangerous it was to argue upon such statistical facts as formed the basis of his noble Friend's conclusion upon this important subject, he should only have to remind their Lordships of the gross absurdity of the argument which his noble Friend had deduced from the papers before him, and which was neither more nor less than this—that in one part of the United Kingdom there had been a great improvement in the morals of the people, and a diminution of crime; while in another part, Scotland, there had been no improvement, but that the people there had become a great deal worse—worse by 100 per cent—and that the people of Scotland had become twofold degraded in the course of the last three or four years. His noble Friend had left them one item on which to congratulate themselves with respect to the state of things in the sister kingdom, Ireland. He should be sorry to detract in any manner from the praise that might be bestowed upon the improved morality of the people of Ireland; but his noble Friend had forgotten what had happened during the sixteen years that had elapsed since the year 1838, which was the period with which he had compared the *Estimates* of 1854. There had been since that time what was called the “exodus.” He thought that would explain the diminution of crime in that part of the United Kingdom, as well as the diminution in the number of the people. There was another subject on which he differed greatly from his noble Friend—namely, education, both the education of the people and the education of the upper classes. No man, however strongly he might feel the necessity of increasing instruction among the common people, ever believed that it would produce an immediate effect in lessening the number of criminals, more especially if an improved police and an improved system of administration of criminal justice went on concurrently. These two circumstances would necessarily cause an apparent increase in the number of offences. But if any of their Lordships would consult the learned Judges who went the circuits on the subject, they would at once state that the calendars of offenders invariably showed that the great majority of crimes were committed by persons who could neither write nor read. His noble and learned

Friend the Lord Chief Justice told him that two-thirds of the whole number of criminals were those who were without any education at all. It had always been his opinion that when they relied upon the benefits of education, they ought to do a great deal more for education than had ever yet been attempted. There was one species of education which went directly to the prevention of offences—he meant infant instruction. It was somewhat too late to think of changing the nature of children by any after-training, if they waited till the children became of the age at which they were generally sent to the primary schools. But if they took infants three or four years old, they could train them to virtuous habits—keep them out of harm's way, and remove them from the contaminating influence of profligate parents. By this course of moral training they might be fitted to become good, innocent, and useful members of society. The criminal population of any country—that was to say, that portion of the people among whom criminals were found—was a comparatively small number. In a town containing 1,500,000 people, there were not more than 30,000 or 40,000 of them among whom criminals would be found. Now, by providing infant schools for training, his belief was that they would do more to eradicate crime and prevent its taking root than by any other expedient. He had said that he differed from his noble Friend also in his views respecting the education of the upper classes. If they wished to promote education among the people at large, and that it should go down even to the humblest classes, the best course to take was to create a taste for knowledge among those who were above the humbler classes. If the middle classes had a taste for the acquirement of knowledge, if they were induced to think that it was essential to their happiness, or even to their comfort, the feeling so created among them would necessarily influence the next grade of society below them, and thus by degrees a taste for knowledge would be propagated and extended throughout every class of the community. If he thought that what had been done in reference to education had had a tendency to slacken individual efforts, he should agree in the observations of the noble Earl; but his impression was, that the grants of public money had been carefully distributed, so as to interfere as little as possible with individual charity or bounty.

Any contrary course would have been opposed to the original intention of these grants, as recommended by the Education Committee of 1818. With respect to the Houses of Parliament, he differed less from the noble Earl than he did in regard to other matters to which the noble Earl had directed the attention of their Lordships; but on this head he took no blame to himself for any sins against good taste, for, from the very first, he held it to be barbarous in the extreme that in the middle of the nineteenth century they should erect a Gothic structure for the Houses of Parliament. He gave the fullest praise to the genius of the architect for producing all those peculiar beauties which belonged to Gothic architecture; but, with all his admiration of those beauties, he was of opinion that the architecture of the building ought not to have been Gothic, but the more chaste and severe Doric.

THE DUKE OF ARGYLL said, that, so far as he knew, there was no increase in the criminality of Scotland which was not proportionate to the increase of the population. The greatly augmented changes of the Estimates were owing to a new system of prisons which had been introduced in a great measure since 1838; but, if there had been any increase in crime, that circumstance would tell against, and not in favour of, the whole argument of the noble Earl; for unquestionably of late years the population of Scotland had outrun the means of education there. It was too late in the day to argue against the beneficial effects of education; but if the noble Earl wanted statistics on this head, particularly with respect to the juvenile criminal population, he would refer the noble Earl to papers laid before Parliament in recent years in regard to Aberdeen, and to the effect which the establishment of reformatory schools for juvenile offenders had had in decreasing juvenile delinquency 50 or 60 per cent. The noble Earl had referred to the increased expenditure on account of the Geological Museum and Department of Practical Art. The expenditure for art education had been repeatedly shown to be necessary in the present defective state of our manufactures in respect of design; and, to show the great economical advantages of education of this nature, he (the Duke of Argyll) did not know that he could do better than direct attention to that very department. Two or three years ago he went over the largest manufactory in Glasgow, and he

*Lord Brougham*

was astonished at being informed of the very large sums which were weekly, monthly, and yearly expended for the purchase of the most simple patterns brought from France. The manufacturing towns used to be entirely dependent on patterns imported from foreign countries, and some of them had been constantly urging the Government to establish schools of design. If, by the creation of a skilful class of designers, the money now expended in encouraging the artists of foreign countries were spent at home, could any one doubt that this would tend materially to the increase of our wealth and the development of our manufacturing resources? Wherever those schools had been established the very best results had ensued in an economical point of view, and the money which was before spent abroad was now expended among our artisans at home. With respect to the Geological Museum, the noble Earl would hardly have any doubt about the utility of that establishment if he had only attended some of the lectures delivered there by eminent men to the artisans of London upon the practical application of the principles of science to the various arts and manufactures. It was for such objects that the Estimates to which the noble Earl had referred had been increased; and, considering the beneficial results of the institution of the Geological Museum, the Government had thought themselves justified in proposing an outlay of money for the establishment of similar institutions in Edinburgh and Dublin. The Estimates exhibited an increase of 8,000*l.* for the institution at Edinburgh, and a similar sum for Dublin, and of 9,000*l.* in aid of local schools of art. The general principle on which this outlay had been sanctioned by the Government was, that it would be attended with the best practical effect upon the manufactures and commerce of the country. No doubt the noble Earl might be right in saying that the Miscellaneous Estimates were capable of some reductions, but he dissented from the whole spirit which governed the noble Earl's remarks. The noble Earl objected to the whole expenditure connected with peace and civilisation as contrasted with the expenditure for war. It was true that the country had entered into a contest with one of the greatest Powers in Europe, and, as it was impossible to say when the contest might close, it behoved them to husband their resources; but still he must express his dissent from any argument

tending to recommend the retrenchment of the expenditure connected with the arts of peace, upon which the permanent advantage of the people must depend.

THE EARL OF ELLENBOROUGH, in reply, stated that the Estimates for the present year having appeared on the 31st of March, he had given notice of the present Motion to the late President of the Council (Earl Granville) on the 19th of May. He could not tell that that noble Earl would not now fill that office, or that he would not be present in the House that evening. He certainly thought it would be sufficient to give notice to one Member of the Cabinet. The noble Duke (the Duke of Newcastle) seemed to think that he had not made a fair comparison between the different items in the Estimates of 1838 and those of 1853. He had, however, carefully deducted from the Estimates of 1853 those items which were either wholly new, or were for the first time charged upon the Miscellaneous Estimates since 1853. On these two accounts he deducted from the Estimates of 1853 no less a sum than 885,000*l.*, and having done that he believed that it was impossible to state the comparison between the two years' expenditure more fairly than he had done. It was a misapprehension of his argument to suppose that he objected to the extension of education. He stated that the good people who were desirous to extend education believed that it would greatly elevate the moral character of the people. He then mentioned the reasons which led him to believe that that result would not be attained, at least not to the extent expected, and he afterwards remarked that it was evident the expected improvement had not taken place, since the expenditure upon the punishment of the wicked had greatly increased. The noble Duke (the Duke of Argyll) had congratulated himself on getting a grant of money for the promotion of art and science in Scotland. He (the Earl of Ellenborough) was only surprised that Scotland had got so little, although, indeed, it had really received not 8,000*l.*, as the noble Duke had said, but 25,000*l.* The noble Duke had also boasted of the encouragement which the Government had given to art in Ireland. He found, however, that the Royal Irish Academy and the Royal Hibernian Academy—what difference there was between them, except in the name, he did not know—had received only 300*l.* a year each from 1838 to 1854. He

strongly recommended the claims of these institutions to the attention of Government.

On Question, *agreed to.*

House adjourned to Monday next.

## HOUSE OF COMMONS,

Friday, June 16, 1854.

MINUTES.] PUBLIC BILLS.—3<sup>o</sup> Customs Duties (Sugar); Ecclesiastical Courts.

### VALUATION OF LANDS (SCOTLAND) BILL,

Order for Committee read. House in Committee, Mr. BOUVERIE in the Chair. Postponed clauses brought forward. Clause 2.

MR. W. LOCKHART said, he wished to have some explanation of the numerous Amendments of which the Lord Advocate had given notice—whether they would affect the clauses now to be considered, or what influence they would have upon the general scope of the Bill. This was the third time that the Bill had been in Committee. About 150 Amendments had been proposed before this last batch, which he had taken the trouble to count, and which were no fewer than sixty-two.

THE LORD ADVOCATE said, he must decline to make any statement with reference to the Amendments generally, until the postponed clauses had been disposed of. It was true, no doubt, that several Amendments had been made—and made very properly—for the measure was one of great practical importance, and dealt with a great many practical matters. The Bill was intended to provide a valuation of the land of the country, and every clause, therefore, ought to be well weighed. He could assure the hon. Member that ample opportunity would be given to consider all the Amendments that were proposed.

Clause *agreed to.*

Clause 14 (New qualification for Commissioners of Supply).

MR. CRAUFURD said, he would propose to omit certain words which provided that with reference to the qualification of Commissioners of Supply under the Act, house property should be estimated at only half its annual value. He could see no reason why the house proprietor should not be placed upon the same footing as the proprietor of land, or why a property of 1,000*l.* or 100*l.* a year in houses should be only equal to 500*l.*, or to 50*l.* a year, in land.

Amendment proposed, in page 7, line 22, to leave out the words—

"Provided always, That, with reference only to the qualification of Commissioners of Supply under this Act, the yearly rent or value of houses and other buildings, not being farmhouses, or offices, or other agricultural buildings, shall be estimated at only one-half of their actual yearly rent or value, in terms of this Act."

MR. E. ELLICE said, he thought the proviso had reference to a part of the Bill which had been struck out, and therefore the reason for a difference between landed and house property ceased to exist.

THE LORD ADVOCATE said, this clause was to extend the qualification by giving it to property never before qualified. It would be scarcely fair to say parties possessing property worth only twelve or fifteen years' purchase should be in the same position as others possessing property worth thirty years' purchase. That house property brought less than real property was a fact, and therefore there could be nothing offensive in the proviso.

MR. CRAUFURD said, the principle of the Reform Bill was that 10*l.* rent in towns should be equal to 50*l.* rent in the county. If all who were qualified would be Commissioners of Supply, there might be some force in the objection to the introduction of so large a body; but that was not so; and as 100*l.* a year rent in a town was taxed as much as 100*l.* a year rent in the country, he should divide against the proviso.

MR. DUNCAN said, he also considered the proviso very unfair towards the owners of house property. If that property was to be taxed to the full amount of its annual value, the privilege should be granted to the full amount, and not limited to one-half.

MR. DUNLOP said, that giving the privilege to houses worth 200*l.* a year would only let in one or two persons in a county. As houses and lands were taxed equally, the fair and handsome thing was to treat them equally.

MR. ELLIOTT said, he should vote for the omission of the proviso. The distinction made between farm-houses and other houses appeared to him inexplicable.

MR. CHRISTOPHER said, that all farm buildings formed part of the farm, and were necessary for its cultivation. With regard to the Amendment proposed, he should vote against it, because he thought the whole clause was drawn upon a fair system of representation.

Question put, "That the words proposed to be left out stand part of the clause."

The Committee divided:—Ayes 39; Noes 28: Majority 11.

Clause agreed to.

Clause 29.

MR. SMOLLETT said, it was worthy of serious consideration whether the production of title should be dispensed with, and whether provision should not be made that a person ceasing to be on the valuation roll should also cease to appear on the register of voters.

THE LORD ADVOCATE said, the names of parties appearing on the valuation roll was to be *prima facie* proof of title. The result would be to simplify very much the expense of registration, because in nine cases out of ten the proprietorship might be reasonably presumed from the payment of assessment; and if the title were questioned, the opponent would have to show a probable case for the decision of the sheriff. His own inclination was to carry the principle still further, believing the valuation roll was the best means of deciding who was entitled to the franchise.

MR. DUNLOP said, he thought it wrong to call upon the objector to disprove ownership. Would it not be better to require that if the title were challenged it should be produced?

Clause agreed to.

Clause 36 (Interpretation clause).

MR. DUNLOP said, he wished to move the insertion of the words "feu duties and ground annuals." With the permission of the Committee, he would briefly state the nature of these feudal tenures in Scotland. The person who granted the feu and the person who took it were both proprietors, both being infeoffed in the land, and there were cases in which the proprietors of feu duties, in the neighbourhood of large towns, derived revenues of 2,000*l.*, 3,000*l.*, and even 10,000*l.* a year from them. In one case, in the neighbourhood of Glasgow, the income from this source was as much as 25,000*l.* a year. In point of principle there was no reason whatever why the owner of the land, the superior who owned the land, and who derived what was substantially a rental from it, should not pay upon the rental which he so received his fair proportion of the tax, where there was no contract to the contrary. He would just put a case, by way of illustration. Some proprietors, who could not grant feus, granted building leases. Now, supposing a proprietor to grant building leases, say for ninety-nine years, at a rental of 50*l.*

per acre; another proprietor granted feus upon the same terms. The feuer and the lessee both build upon the land houses of equal value. Under all the late Statutes, they would be held to be owners of the land with respect to the franchise and the payment of prison rates and poor rates; but if this interpretation clause should pass in its present form, the result would be that the lessee who drew 200*l.* a year from his house, out of which he paid 50*l.* to the landlord, would be rated only upon the 150*l.* which he retained; while the feuer, who received and paid precisely similar amounts, would be rated on the whole 200*l.* In the case of the lessee, the over landlord would pay upon the 50*l.* which he received; in the case of the feuer, the over-landlord would not be rated at all to the extent of a single penny. Now he thought there was no justification for making this great distinction between cases which were perfectly analogous—which differed from each other in no respect; whatever, except in the mere technical matter of title. Where there was a contract, a stipulation in the feu charter, that the tenant should pay the whole, of course he would not interfere with it; but where there was no contract, he thought that those who were substantially in the same circumstances should be placed upon the same footing. It was objected to this proposal that this was a Valuation Bill, and was not intended to alter the law; but even if it were true that his Amendment would alter the law, he would remind the Committee that this very clause proposed to rate manse and glebe houses which had been judicially decided to be exempt. The exemption of clergymen upon their stipends had been already done away; and the exemption formerly enjoyed by his (Mr. Dunlop's) own profession, and by Queen's tradesmen, had also been abolished; and certainly the great aristocracy, who generally received these feu dues, ought not to retain an exemption which they were doing away with in every other case. But what he contended was, that this Amendment would not change the law; for it had been judicially decided and acquiesced in, that feu duties were liable to prison rates; and the judgment of Lord Mackenzie, which had been relied upon on the other side, did not go the length of deciding that on legal principles such duties were not liable to be rated. The clause, as it now stood, would confer upon them an exemption with respect to prison

rates, which they did not now enjoy. Then, the question had an important bearing as regarded the franchise. At present, a man claiming in respect of feu duties could be enrolled as a voter, but the Bill would have the effect of disfranchising this very large class; while, on the other hand, if the feu duty was not to be deducted, say from a 10*l.* qualification, the effect might be to let in persons with houses of only 8*l.* rent. That might or might not be a good change, but it ought not certainly to be confined to this class of voters. He contended, therefore, that there should be no exemption of the great over-lords, but that every man should be called on to pay according to the interest he had in the land.

Amendment proposed, in page 18, line 21, after the word "teinds," to insert the words "feu duties, ground annuals."

THE LORD ADVOCATE said, that the effect of introducing feu duties into the clause would be, that all the public burdens laid on real rents would be proportionately laid on the proprietors of the feu duties. That was the result at which the hon. and learned Member aimed, but he left out of sight that the feu duties were daily dealt with on the ground that they were exempt from public burdens. When parties bought feu duties, they bought them without any deduction on the ground of those burdens; but when parties bought land they bought it with a deduction on that account. Therefore they could not interfere with feu duties without interfering with the general understanding on which they were bought and sold. The public had no interest in the question; the property was already assessed, and the only result would be to place burdens on parties who had stipulated to be relieved from them, and to relieve those who were under obligation to pay them.

MR. FERGUS said, he should be sorry to interfere with anything established by law, but it was merely a custom to which the right hon. and learned Lord Advocate had alluded. He should support the Amendment.

After a brief discussion, in the course of which Mr. COWAN, Mr. POLLARD-URQUHART, Mr. JOHN MACGREGOR, and Mr. DUNCAN supported the Amendment, and Mr. SMOLLETT, Sir GEORGE MONTGOMERY, Mr. CHRISTOPHER, Mr. LOCKHART, and Sir ARCHIBALD CAMPBELL resisted it.

MR. DUNLOP, in reply, said, it was his intention to divide the Committee, because the exemption clauses in some charters

implied the general understanding that without such a provision feu duties were liable to assessment, and that without his Amendment feu duties in some parts of Scotland would actually be relieved from the payment of prison rates at present levied on them.

Question put, "That those words be there inserted."

The Committee divided:—Ayes 19; Noes 61: Majority 42.

COLONEL BLAIR said, he wished to move to strike out the words "manse and glebes" from the interpretation clause. By the present law the ministers in Scotland were not assessed on their manse and glebes, and he might state, that when the present Poor Law for Scotland came in force, it was attempted to do so, but the Court of Session and House of Lords decided to the contrary. He begged to state, for the information of English Members, that the average stipends of Scotch ministers did not exceed from 200*l.* to 250*l.* per annum, and he could see no reason why they were to be assessed in the manner proposed. Every one knew in large parishes the claims made on them for charity, and though the rate might not be large, it would be a serious tax on them. At any rate they ought not to be rated as owners, but as tenants, and, as such, only pay one-half. He begged to state that he included in this proposition, not only the ministers of the Establishment, but those of all denominations.

Mr. E. ELLICE said, as the exemptions in respect to the stipends of clergymen had been abolished, it had been thought only fair that incomes derived from other sources than stipends should be placed on the same footing.

THE LORD ADVOCATE said, he could add but little to the answer made by his hon. Friend. If stipends were to pay, he could not see why a clergyman whose main source of income was a large glebe should be exempt.

Mr. FORBES said, he was of opinion that, after the vote just come to with respect to feu duties, they ought not to lay a new tax upon the small incomes of the clergy.

Mr. DUNLOP said, they had just refused to place the great proprietors on the footing of being assessed on their feu duties, and now they had poor clergymen included in the assessment. He thought it was a fair principle to tax them all, yet the Committee had refused to tax the

great proprietors, whose case was, to say the least, a doubtful one in point of law, while they included clergymen, whose claim for exemption legal decisions had put beyond doubt.

THE LORD ADVOCATE said, he would be very happy to acquiesce, if the general sense of the Committee should be in favour of continuing the exemption.

Mr. E. ELLICE said, if the exemption were to be continued, and strict justice to be done, the liability which now existed with respect to stipends ought to be abolished.

THE LORD ADVOCATE promised to consider the question in the course of the future progress of the Bill.

Mr. DUNCAN said, he wished to strike out, after the word "forests," the words "except where the said shootings and deer forests are actually let." He saw no reason why the proprietors of these shootings, which were valuable properties, if they choose, instead of letting them, to keep them for their own gratification, should escape paying their fair proportion of taxation; at all events, if they were, let the owners of house property be placed in the same position.

THE LORD ADVOCATE said, he would take that opportunity of stating what he proposed to do with the Bill. The amendments, though numerous, were, for the most part, merely verbal, and called for no special remark; but he wished hon. Gentlemen to consider, before they took up the Bill again, what was to be done with reference to the Court of Appeal. The provision at present in the Bill was introduced in compliance with the wish of a very large and numerous meeting of the Scotch Members; but he had no strong feeling on the subject; and if there was a general feeling in favour of an alteration, he should put no obstruction in the way. With respect to the shootings he thought the provision in the Bill was a fair one. If they were let, they paid; if they were not let, they paid upon their agricultural value.

Mr. DUNLOP said, he thought the case might be put even more strongly than the hon. Member for Dundee (Mr. Duncan) had put it; because, when a house was unlet, the proprietor obtained no benefit from it; but, though a forest should not be let, the proprietor could always enjoy the privilege of shooting over it himself.

Amendment withdrawn; Clause agreed to.

Mr. Dunlop

House resumed; Committee report progress.

#### KINGSTOWN HARBOUR—QUESTION.

Mr. H. HERBERT said, he wished to ask the hon. Secretary of the Treasury whether he intended to propose the Vote for Kingstown Harbour in its present form, and when the Packet Service Estimates would be laid on the table of the House?

Mr. J. WILSON said, with respect to Kingstown Harbour it was quite true that he had consented to postpone the Vote, which had been before the House upon a former night; and the reason why he had postponed it was his want of knowledge of the existence of a Report, which had been referred to by his hon. Friend, as having been made by Mr. Rendel to the Treasury with reference to that harbour. It turned out, as he had suspected at the time, that Mr. Rendel had made no Report to the Treasury, and had received no communication from the Treasury upon the subject; but he had been consulted by the Board of Works in Ireland, and he made a Report to them. He admitted that that Report ought to have been communicated to the Treasury, and that it was inconvenient that the Treasury should have been without it; but he had since seen the chairman of the Board of Works, and had had Mr. Rendel's Report, and he was bound to say that, upon reading it, it seemed to him that what they were doing at Kingstown was not that which was best calculated for the ultimate advantage of the harbour. The Report, therefore, had been referred back to Mr. Rendel, with a request that he would reconsider the whole question of the harbour, and with a view to the adoption of the plans suggested in his first Report. It was his intention to propose the Vote in its present form, because it would be equally applicable in that form to any plan which it might be ultimately determined to carry out. With respect to the Packet Service Estimates, he hoped they would be on the table in the course of a few days.

#### THE LOSS OF THE "EUROPA"— QUESTION.

VISCOUNT JOCELYN said, seeing the right hon. Baronet the First Lord of the Admiralty in his place, he would take the opportunity of asking whether any information had been received by the Government with respect to the loss of the *Europa*?

SIR JAMES GRAHAM: Sir, I grieve

to say that I received, this morning, a Report from Captain Carnegie, with reference to the loss of the *Europa*, which confirms the melancholy fact that that ship has been burnt on her passage to Gibraltar. A statement with respect to it will be sent by the Admiralty to the press, so that it may be communicated to the public in full detail, this evening. I believe the short statement of the facts is this, that, I think on the morning of the 1st of June, Captain Carnegie observed smoke in the offing, which, on further investigation, led him to believe that a ship was on fire. He bore down immediately towards the wreck, and found the vessel deserted, burnt to the water's edge, and not a living person on board. Having endeavoured, by sailing round the wreck, to see if any boats could be discovered, and finding none, he came to the conclusion that the crew had escaped, and had been taken on board some vessel, and he ultimately, not without anxiety, left the wreck. I think it was two days after that time that he was boarded by another ship, which communicated to him the fact that, on the night preceding the morning when he had seen the fire, they had been in the immediate neighbourhood of the *Europa*—that a portion of the crew had made their escape from the burning wreck to that ship, and that another portion had also made their escape to another ship, which was then in the offing; and on the whole, I think, out of the number of persons on board the *Europa*, amounting to eighty-seven, of whom fifty were soldiers and thirty-one sailors, the crew and officers of the ship, twenty-one, unhappily lost their lives. The House will be grieved to hear that among the officers who have not survived was Colonel Moore, the commander of the Enniskillens, who refused to leave the burning ship while a single private remained on board. He was, unhappily, too late at last to effect his own escape, and his life has consequently been lost. Colonel Moore and the assistant veterinary surgeon are the officers who have been lost, and there are six non-commissioned officers, and I think twelve or fourteen men, who have also unfortunately perished. The circumstances which gave rise to the fire are still doubtful; but a full investigation into the cause of it will take place at Gibraltar. I should be neglecting my duty if I did not also say that there are circumstances with respect to the conduct of the sailors on the occasion which are highly unsatisfactory. The whole of the officers of the

transport and all the sailors made their escape immediately after the commencement of the fire, and had not, in my opinion, used sufficient diligence in their exertions to preserve the vessel. I ought, however, to make an exception in favour of the captain of the transport, who remained until the very last, as did the carpenter and one sailor; but with these exceptions I am sorry to say the conduct of the sailors does not appear to me to have been satisfactory. A strict investigation, however, into the cause of the fire will be made at Gibraltar, and what information the Government may obtain upon the subject will be published.

MR. OTWAY said, he wished to ask the right hon. Baronet whether he had any idea of the cause of the loss of life? Did he suppose it arose from the insufficiency of boats? And, more particularly, he was anxious to ask, whether Sir Baldwin Walker, in the month of March in the present year, had made a Report to the Board of Admiralty of the advantage of supplying troop ships and emigrant ships with a certain class of boats, and whether the right hon. Baronet had any objection to lay that Report on the table of the House?

SIR JAMES GRAHAM: I am not aware, Sir, of the particular Report of Sir Baldwin Walker to which the hon. Gentleman refers, but if he will give notice of a Motion to lay it on the table of the House, I shall feel it my duty to give my immediate attention to the subject; and if I do not find it objectionable upon public grounds, which in that case I shall state to the House, I shall be ready to assent to its production. I have great pleasure, however, in stating to the hon. Gentleman and to the House, that the very precautions which he thinks necessary, and which he says Sir Baldwin Walker has recommended, had been taken in the case of the *Europa*. She had been provided with boats of the description to which the hon. Gentleman has referred. And there were also safety-lamps especially supplied to this transport as a precaution against fire. The vessel, before she sailed, had been examined by Lieutenant General Sir Harry Smith, who thought that the magazine was imperfectly constructed; and in consequence of that the officers of the Board of Ordnance were called in to reconstruct it. The magazine was taken down and rebuilt at Plymouth, and all the precautions which are taken with respect to the

*Sir J. Graham*

magazine of a ship of war were taken with respect to the magazine of this vessel. Every arrangement was made which Sir Harry Smith and the officers of the Board of Ordnance thought necessary.

#### THE OXFORD UNIVERSITY BILL.

Order for Committee read. House in Committee.

Clause 33 *agreed to*.

Clause 34.

SIR WILLIAM HEATHCOTE said, he proposed to insert, after the words "it shall be lawful for any College, and for the Trustees, Governors, and Patrons of any University or College emolument," "and for any other person or persons." He also had next an Amendment to propose in line 17. The clause declared that every petition against any objectionable ordinances or regulations on the part of any college, &c., should be referred "for the consideration and advice of five Members of Her Majesty's Privy Council," to be named in the order of reference. Now he proposed to insert after "Members" the words "of the Judicial Committee," and add at the end of the clause, "and may make such orders with respect to the payment of the costs thereof as they shall deem just." Now the object of his second Amendment was, to give the tribunal which would have to decide upon the allegations contained in such petitions something of a judicial character, for, as organised according to the clause, five members of the Privy Council might be selected merely on account of their political bias, and with the view of determining the point at issue in accordance with the wishes of the Government of the day.

THE CHANCELLOR OF THE EXCHEQUER said, he was very sorry he could not assent to the Amendment of his hon. Friend, but he must regard it as embodying a material bearing on the clause for the worse. It was quite a mistake to imagine that Government desired to have all such questions tried according to the rules and principles enforced in a court of equity. The intention was to invest the tribunal with a much larger scope than that of the Court of Chancery.

SIR WILLIAM HEATHCOTE said, his object was to ensure in all cases the selection of five persons of judicial habits.

MR. J. G. PHILLIMORE said, he hoped the hon. Baronet would press his Amendment. It was most monstrous that the rights and privileges of so large a por-

tion of the University should be placed so entirely in the power of the Crown. It was most essential that the persons to adjudicate on such matters should be persons habituated to consider questions of jurisprudence.

THE CHANCELLOR OF THE EXCHEQUER said, he must defend the proposed arrangement as being no innovation; but, on the contrary, as being quite in accordance with the constitutional practice.

MR. WIGRAM said, the question before the Committee was, whether it was not desirable to have a guarantee that the five members to be selected should not be chosen from mere party considerations. He contended that at least three, if not four, members, should be selected from the Judicial Committee, if not the whole five.

MR. ROBERT PHILLIMORE said, the effect of the Amendment would be to exclude from the possibility of being members of the tribunal such members of the Privy Council as the Archbishops of Canterbury and York, as well as the Bishop of London, the very persons of all others whom it was most desirable to see presiding as judges on such occasions. And he would also remind the hon. Baronet (Sir W. Heathcote) that the clause did not exclude the members of the Judicial Committee from being selected; it only enlarged the sphere of election.

MR. HENLEY said, when he had to decide between a question of convenience and inconvenience, his choice was determined by a reference to the public interests. Now he confessed he was one of those who had very great confidence in a certain number of those from whom these five gentlemen were appointed to be selected. But as their appointment devolved on the Minister of the day—no matter what might be their fitness—no matter what the justice of their decision, it could never, under such circumstances, have that weight with the public to which an impartial tribunal was entitled; and it should be remembered that the nature of the tribunal from which it emanated would enter as a very large element into the consideration how far weight was to be attached to the decision. The Chancellor of the Exchequer ought to remember that they were now appointing a tribunal to deal, not with mere accidental questions, but were constituting one, under an Act of Parliament, which would have large and important matters to decide on.

THE SOLICITOR GENERAL said, he

was sensible of the great advantage to be derived from an infusion of the lay as well as judicial element in such a tribunal; but perhaps he could meet the wishes of hon. Gentlemen by consenting, on the part of the Government, that two out of the five members should be members of the Judicial Committee.

MR. G. BUTT: Let there be three.

SIR JOHN PAKINGTON said, he was unable to determine what the hon. Baronet the Member for the University (Sir W. Heathcote) thought of the suggestion just announced; but for himself he must say it was not altogether to his satisfaction, and his first objection was, that although they had in this right of appeal a check upon the powers of altering the Statutes of the college, yet they had no guarantee that the tribunal to which the appeal was to be made would be an impartial one. Now, he thought that the noble Lord (Lord J. Russell) had no right to quarrel with them if they on that side of the House were a little jealous with regard to the alterations in the Bill. For the noble Lord could not forget the circumstances under which some of these alterations had been brought forward. He could not forget that the Bill contained important provisions, to the extent of destroying, in many cases, the intentions of founders, and doing away with the preferences to which particular localities were entitled—provisions with respect to which a large party in that House entertained most serious objections. And so objectionable were those provisions held to be, that it was quite clear, by the decision since come to by Her Majesty's Government, that they anticipated the possibility of an adverse vote with respect to at least some of them. Apprehending such results, they had withdrawn some objectionable clauses, and had substituted for a compulsory enactment an authority leaving it open to the colleges to make certain changes for themselves. Still those clauses had been drawn with a degree of ambiguity which seemed most open to their intentions being suspected. Last night they had had a great deal of discussion as to the 31st clause, and the Government rejected a most moderate Amendment brought forward by the hon. and learned Member for Plymouth (Mr. R. Palmer), still insisting upon a form of words which rendered it a matter of surmise that they intended to effect indirectly what was adjudged by hon. Gentlemen to be so objectionable. Two inquiries were also addressed to the Go-

vernment, first, as to whether two-thirds of the whole governing body, or whether only two-thirds of that proportion of it which was present, should be required to reject an ordinance of the Commissioners; and the second was, what was to be the constitution of the governing body? The answer to the first question was, that it was to be two-thirds of the whole body, thereby reducing the number to nearly three-fourths of those present, and proportionately diminishing the value of the check. They were now, however, on the subject of those checks or securities, and it seemed to him that as the Bill stood, it might be completely frittered away if it was open to the Government to appoint men merely from political considerations. If even two members of the Committee were members of the Judicial Committee, that would still leave the appointment of the majority of them in the hands of the Government, which was what was to be avoided. As for the argument that the Archbishop of Canterbury would be excluded from the Committee, it would surely be open to the Government to appoint him as one of the two members whom it would be in their power to appoint.

MR. ROBERT PHILLIMORE said, he trusted the hon. Baronet (Sir W. Heathcote) would accept the offer of the hon. and learned Solicitor General. It would be most unwise to exclude from the possibility of sitting on the Committee some of those parties who would be best able to decide the questions which would arise, and, above all, it would be most unwise to exclude the President of the Council for the time being.

MR. J. G. PHILLIMORE said, he was of opinion that the tribunal should consist of three members of the Judicial Committee at least.

MR. NEWDEGATE said, the clause gave power to the tribunal to alter all the trusts under which property was held. He could not conceive any question more strictly within the province of a judicial tribunal, and was decidedly of opinion that the majority should consist of judicial members.

MR. WIGRAM said, considering the nature of the questions likely to arise, he thought it most desirable that the tribunal should contain three members of the Judicial Committee, in order to ensure the attendance of two of the Judges.

LORD JOHN RUSSELL said, he was willing to have the clause altered, so that

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the tribunal might contain two members of the Judicial Committee, of whom the Lord President should not be one. This would leave it open to Her Majesty to appoint the Lord President, if she thought proper, so that he might act with two members of the Judicial Committee.

SIR WILLIAM HEATHCOTE said, he understood that the noble Lord was willing to consent to this arrangement—that of the five members of the tribunal two should be of the Judicial Committee exclusive of the Lord President of the Council; and that of the remaining three the Lord President might or might not be a member according to the convenience of the Government. Should the Lord President serve, there would then be three members of the Judicial Committee. With that arrangement he was content. There was, however, another point that he wished to bring before the Committee. In order to provide against any inconvenience which might arise from letting in persons as appellants, he would propose at the end of the clause to insert the following words—“and may make such orders with respect to the payment of the costs thereof as they shall deem just.”

THE SOLICITOR GENERAL said, the words proposed by the hon. Baronet would raise the question as to whether the Commissioners had the power of decreeing costs out of the estates of the colleges. The whole question of costs would be reserved for the present, and he therefore wished the hon. Baronet to withdraw his Amendment.

SIR WILLIAM HEATHCOTE said, the power he had in view was one to be exercised chiefly against the appellants that had been let in. It seemed reasonable, if persons were allowed to raise questions before the Privy Council on a mere allegation of interest, that some penalty by way of costs should be created if they raised those questions without sufficient ground. As, however, the whole question of costs was to stand over, he had no objection to withdraw the Amendment.

Clause, as amended, *agreed to*; as were also Clauses 35 and 36.

Clause 37 (Commissioners, in exercising said powers, to have regard to reasonable design of College).

SIR WILLIAM HEATHCOTE said, he wished to propose the insertion of words to prevent the Commissioners appropriating any portion of the durable revenues of any college to the establishment of the

professoriate of the University (as contemplated by the clause), unless the same was in accordance with the main objects of the foundation.

THE CHANCELLOR OF THE EXCHEQUER said, he would submit that the limitations imposed by this clause were sufficient as they stood, it distinctly directing that the funds of the college should be applied in the first instance to the full satisfaction of its wants, and after that they might be applied to purposes in the benefits of which the University should have a share; and it was unnecessary to say, "in cases where they shall be in accordance with the objects of the foundation," inasmuch as there could be no doubt that lectureships and professorships were in accordance with the foundation, unless it necessitated an abstraction from that sum which the college required for its exclusive purposes.

*Amendment withdrawn.*

MR. HENLEY said, he was of opinion that the security referred to by the right hon. Gentleman was insufficient. At the same time he wished to call attention to the fact that this clause contained the words, "science and letters," instead of "religion and learning," which, though at first omitted from the Bill, had, with the consent of the right hon. Gentleman the Chancellor of the Exchequer, been inserted in a previous clause.

THE CHANCELLOR OF THE EXCHEQUER said, the words "science and letters" were introduced into that clause in reference to the word "professoriate" in the same clause; but, if it would give satisfaction, there could be no objection to introduce the words suggested by the right hon. Member.

THE SOLICITOR GENERAL suggested, after the words "science and letters," there should be introduced, "and for the advancement of religion and learning."

MR. NEWDEGATE said, he must protest against the unlimited power given to the Commissioners by this clause as amounting to one of confiscation.

Clause, as amended, *agreed to*; as was also Clause 38.

Clause 39 (Statutes made by Commissioners subject to repeal or alteration by University or College).

SIR WILLIAM HEATHCOTE said, he begged to propose the insertion of the word "proceedings," in order to extend this power of alteration not only to the Statutes affecting the power and consti-

tution of the Hebdomadal Council and the Congregation, but also to such as affected their proceedings.

*Amendment agreed to.*

MR. NEWDEGATE said, he would now move, that after the word "Congregation," the words "and respecting great halls and private halls" should be inserted. He conceived that the clause, as it stood, would prevent the Queen in Council from interposing with respect to the constitution of private halls, although the constitution of the Hebdomadal Council and the Congregation would be under Her Majesty's control. The system of private halls was a mere experiment, and he did not see why it should not be subject to alteration at the discretion of the University, with the approval of the Queen in Council.

THE CHANCELLOR OF THE EXCHEQUER said, he must object to this proposition. A power was given to repeal or alter all Statutes in regard to private halls, which might be passed by the University, but it would be undesirable to give to the University a power of repealing or altering the clause under which such halls were constituted.

MR. MOWBRAY said, he thought that, as the private halls were an experiment, the University ought to have the power to discontinue them.

SIR WILLIAM HEATHCOTE said, that though he had voted in favour of establishing private halls, he entirely concurred in the view which the hon. Member for North Warwickshire (Mr. Newdegate) took of the question, namely, that, being introduced as an experiment, he should make that experiment with more satisfaction if he saw there was an opening for reconsidering the matter in case of a failure. An hon. Member had stated that, if Government were to abandon those private halls, they had better abandon the Bill itself. Now, the Government had not been asked to do anything of the sort; but only to preserve to the Universities, subject to the check of the Queen's approval, that power of dealing with those halls which they would have had before the Act was passed. If the suggestion of the hon. Member for North Warwickshire (Mr. Newdegate) were adopted, it would be impossible for any rash measures taken by the Universities to meet the approbation of the Queen in Council. Should the apprehensions of hon. Members on that side of the House turn out to be well founded after a series of years, surely it would be

conceded that the whole matter ought then to be reconsidered and revised.

LORD JOHN RUSSELL said, he thought that even if it should at any time be necessary to reconsider the subject of private halls, it was desirable that they should not be done away with without the consent of Parliament. This clause gave to the University and the colleges extensive powers to alter, with the consent of Her Majesty, what had been proposed in this Bill; but he thought it would be highly undesirable to insert in it such a provision that the whole of the Act might be set aside by the political Administration of the day in concert with the University.

MR. HENLEY said, that the experience of five or six years might show that a different set of rules was necessary, and he objected to leaving the power of framing these rules entirely in the hands of the Commissioners. If some provision were not introduced for amending the rules, great difficulty might be experienced hereafter.

THE CHANCELLOR OF THE EXCHEQUER said, that ample provision was made for permitting the amendment of the Statutes. The powers contained in the 30th clause of the Bill, if exercised at all, might be exercised either by the Commissioners or the University; if by the University, they would make Statutes in pursuance of these powers, and these powers would be liable to alterations under Clause 38; if exercised by the Commissioners, and not by the University, then the scheme of the Commissioners, subsequently taking effect as a Statute, would be liable to alteration under the 39th clause, subject to the approval of the Queen in Council.

MR. MOWBRAY said, it would be unwise to tie down the University irrevocably to this great experiment, which was, in fact, a revolution of the whole system, from which it could not escape without invoking the aid of Parliament. Let them fix what limit they pleased. Let the University be told that it should not act for twenty or thirty years, or until a new generation had grown up, and all prejudices and feelings connected with the Bill had passed away. But do, after a certain time, restore to the University the power of free action on this most important matter, subject, of course, to the control of the Queen in Council, and not force it to come to Parliament, if it were found that these private halls had operated prejudicially to the moral or intellectual cul-

*Sir W. Heathcote*

turo of the youth of the country. He trusted the Government would take the subject into their serious consideration, and if they did not accept the Amendment of the hon. Member for North Warwickshire (Mr. Newdegate), that they would fix some limited period or other.

MR. GRANVILLE VERNON said, he regarded the question of private halls as the main feature of the measure. It was the principle of an extension of the Universities, and not a question of mere detail.

MR. ROBERT PIILLIMORE said, he was of opinion that what was enacted by Parliament ought only to be amended by Parliament.

SIR JOHN PAKINGTON said, if the hon. and learned Gentleman would look at the beginning of the clause, he would see that every Statute made by the Commissioners in pursuance of the provisions of the Bill was to be subject to revision and alteration by the University authorities. The importance of the experiment of private halls was greatly increased by the fact that a very considerable proportion of those who were most competent to form an opinion upon the subject, looked upon it with the gravest doubt, and, indeed, apprehension and alarm. Those who advocated private halls must not rely too implicitly upon the opinion of Mr. Merivale; because that gentleman was opposed to these halls as proposed to be established by the Bill. And when they found men like Mr. Merivale, and other high authorities at Oxford, regarding the experiment with alarm, surely prudence required that they should provide for the possibility of failure. He would willingly give his assent to any qualifying words that would make it necessary that some specified time should intervene for trying the experiment.

THE CHANCELLOR OF THE EXCHEQUER said, there were two clauses which related to private halls. One, the 27th, was the fundamental clause, which constituted the right, on the part of qualified members of Convocation, to obtain a licence from the Vice Chancellor. The other, the 30th, enabled the University, or, failing the University, the Commissioners, to make regulations for determining who should be qualified, and how they should conduct themselves in the government of these private halls. Provisions were already included in the Bill for revising the law, whatever might be done under the 30th clause. The largest liberty was

intended, and he believed was given, by the Bill with respect to improving and amending anything that the University or Commissioners might do in defining the qualifications of members of private halls. But there was no power in the Bill that would enable the University, even with the consent of the Crown, to defeat the 27th clause.

MR. WIGRAM said, he thought the Government showed a needless amount of jealousy of the University authorities. He did not believe that there was any reason to apprehend that the University would ever think of abolishing the private halls.

MR. NEWDEGATE said, that according to the 36th clause, unless they were considered perfect by the Commissioners, the Commissioners had power to set aside the rules established by the University altogether, and to frame new rules for the government of the private halls. Now, with all respect for the Commissioners, he did not think their experience of Oxford was greater than that which the University authorities themselves possessed. Why, he asked, should they retain this clause at all, giving power to alter everything the Bill did besides, but refusing to give the same power to Her Majesty in Council with regard to private halls? By the 36th clause a large and an exceptional power was conferred in constituting these halls, and yet the Government seemed to be jealous even of the Queen in Council, that they would not allow the possibility of her reviewing, not the absolute enactment of Parliament itself, but that which might be done by the Commissioners. For the life of him he could not understand what the reason was which prevented them from giving the same power of alteration to the Queen in Council with reference to these private halls, that they gave by all the other provisions of the Bill to the Commissioners.

THE SOLICITOR GENERAL said, every Statute which might be framed under the 36th clause would be subject to alteration under the 39th clause. Consequently it was not the fact that any Statute for a private hall would be exempt from alteration by the Queen in Council.

MR. NEWDEGATE said, he still must contend that there should be the same power with regard to private halls, and their constitution and regulations, whether framed by the University or the Commissioners, that they proposed to extend by

this clause to the whole University. He only asked that private halls should be placed on the same footing as the Congregation and the Hebdomadal Council.

Amendment *negatived*; Clause *agreed to*.

Clause 40 (The Cathedral or House of Christ Church to be deemed a College).

LORD ROBERT CECIL said, he begged to ask whether the clause would not enable the Commissioners to dispose of the revenues of the canons of Christ Church?

THE CHANCELLOR OF THE EXCHEQUER said, he presumed that existing appropriations could not be disturbed. As to such of the canonries as had never been appropriated, he apprehended that these formed part of the property of the college, and might be dealt with by the canons or Commissioners, subject to the general revision and the checks provided by the Bill.

MR. HENLEY said, he knew that there was a particular provision with respect to some of the canonries.

MR. GRANVILLE VERNON said, he was not in favour of abolishing cathedral endowments; but Christ Church was less cathedral than it was conventual. He would prefer to retain a large number of small emoluments for students to a few larger ones. He did not think the dean and canons, who were the governing body at Christ Church, would agree to any reduction—not in their own emoluments, because of that there was no question, but in the emoluments of their successors. Now, looking at the Report of the Commissioners, in which it was stated that an average of something like 2,000*l.* a year (he would not pledge himself to the exact amount) was enjoyed by the canons, he was certainly of opinion that something might fairly be taken from them for the purposes of the college.

MR. ROBERT PHILLIMORE said, he agreed with the hon. Member for Newark, that at present Christ Church was not satisfactorily dealt with by this Act, and he hoped this would be one of the amendments introduced into the measure. He thought that for the purposes of this Act, a certain portion, at least, of the senior students and censors might have been incorporated into the governing body of Christ Church.

Clause *agreed to*.

Clause 41 (Persons becoming Members after the passing of this Act not to possess vested interests).

LORD ROBERT CECIL said, he was afraid this clause might have a retrospective effect, and operate to the exclusion, for instance, of a scholar elected last November to his own (Lord R. Cecil's) college.

THE SOLICITOR GENERAL said, the clause included within the category of vested interests the interests of all persons who at the passing of the Act were either elected or eligible to collegiate emoluments. If the individual was *personam designatum*, although his inchoate fellowship or scholarship had in that case to be rendered complete, he would still come within the class of those eligible to be elected at the time of the passing of the Act, and his expectant interests would be reserved.

MR. WALPOLE said, he wished to ask whether the Government ought not to have preserved certain inchoate rights which might exist with reference to particular persons in certain localities, who had brought up their children with the expectation that they would have the benefit of some of the emoluments attaching to particular colleges in regard to those localities? He understood there were a great many cases of this description, and it was rather hard, by that which would operate in their instance as a retrospective law, to take away the rights of such persons. He was not exactly prepared to say how these rights might be guarded. [The SOLICITOR GENERAL: We don't take them away.] No, but Government enabled the colleges and Commissioners to take them away. He should have wished, either by a proviso or by words inserted in the clause, to have said that, with reference to the cases he had alluded to, these particular rights should not be taken away for a period of three years from the passing of the Act.

THE CHANCELLOR OF THE EXCHEQUER said, he thought that if the right hon. Gentleman (Mr. Walpole) would further consider the question, he would see that that mode of proceeding was unsatisfactory. He (the Chancellor of the Exchequer) thought it was utterly impossible and beyond their power to invent any one set of terms that would apply a strict measure of justice to cases so infinitely varied as all the forms of inchoate and expectant rights and interests as might be thought to subsist with respect to the enjoyment of emoluments in those colleges. They should protect certain interests absolutely, which was done by the 31st clause, and they had next to preclude the absolute

title to protection on behalf of persons who should not be in possession of that title at the passing of the Act; but they did not prevent the colleges and Commissioners from extending an equitable consideration to every such case as they might wish to consider. The Bill was an enabling Bill without limit, except the checks on the exercise of the powers that were conferred by it, which checks would either ensure the rational and considerate use of those powers in the first instance, or the correction of the misuse of those powers, if such misuse should unfortunately take place. With regard to the proposition in reference to the three years, such was the difference in the nature and character of those rights that while the three years would be in some cases too much, it would in other cases be too little. The way was, to trust in the first instance to the discretion of the colleges and the Commissioners; and next to the means of protection provided for the purpose through the Privy Council; and finally to the sense of justice which always prevailed in Parliament.

MR. WALPOLE said, he trusted that the declaration of the right hon. Gentleman would afford an indication to the colleges and to the Commissioners that they were to have regard to those equitable principles in making their arrangements.

In answer to Lord ROBERT CECIL,

THE CHANCELLOR OF THE EXCHEQUER said, that a scholar with inchoate rights to be elected to a fellowship would not be deprived of the expectancy of the fellowship by the operations of the Act; but he did not understand that that fellowship to which that scholar was to be elected was to be exempted from the operations of the Act with regard to certain provisions that might be imposed upon the holding of it.

MR. J. G. PHILLIMORE said, he thought that this was a confiscating clause, and that the Committee should divide upon it. It was a clause to meet the views of the hon. Member for North Lancashire (Mr. Heywood), and when that was the case the explanation of the right hon. Gentleman could be of no consequence whatever.

MR. GRANVILLE VERNON said, he was inclined to place considerable faith in the justice of the Commissioners, and the checks that would be imposed upon them. He begged to call the attention of the Committee to the case of a boy who en-

tered Westminster School, of course with the hope of being entered subsequently either as a scholar of Trinity College, Cambridge, or the greater hope of being entered as a student in Christ Church; when that boy entered the College of Westminster, was he to be considered as one of those who had an inchoate right? He apprehended that under the Act he would have no right, but only the hope to pass a sufficiently good examination to enable him to become a student of one of those colleges, and if he had not that expectancy in prospect he would probably not enter the Westminster College at all.

MR. ROUNDELL PALMER said, he considered that the clause had the double vice of being very indistinct in its meaning, and of employing technical terms on the assumption that they were used in the Act which were not used in the Act at all.

THE CHANCELLOR OF THE EXCHEQUER, in explanation of the use of the clause, said, he must beg to remind the Committee that hereafter it might be necessary for Parliament to turn to the subject again, and it would not be right that any college or colleges should have the power of bringing up against them a whole crop of existing and vested interests which had grown up in the interval.

MR. ROUNDELL PALMER said, he considered the explanation of the right hon. Gentleman to afford the most cogent reason for voting against the clause. Whatever powers they gave by this Act of assent or dissent, they should allow the election of the college to go on; and the status of those elected in the meantime should not be uncertain, and if it were the object of the clause to make them uncertain, he for one would divide against it.

Question put, "That the Clause, as amended, stand part of the Bill."

The Committee *divided*:—Ayes 86; Noes 39: Majority 47.

Clause *agreed to*.

Clause 42 (The Stamp Duties payable on Matriculations and Degrees to be abolished so soon as provision shall be made by the University to the satisfaction of the Commissioners, in lieu of the moneys heretofore voted annually by Parliament).

THE CHANCELLOR OF THE EXCHEQUER said, he proposed that, instead of the word "Commissioners," the words "Commissioners of Her Majesty's Treasury," should be inserted.

MR. APSLEY PELLATT asked if it

would not be desirable to abolish at once the stamp duties.

THE CHANCELLOR OF THE EXCHEQUER said, that a Vote was now annually proposed to Parliament for the maintenance of certain professors, and it was thought strange on the part of a wealthy body like the University to apply for a sum of money for such a purpose to the Commons of England; but the answer of the University was, that a greater sum was taken from it by the tax on degrees than it received from Parliament, and in the opinion of the Government it was thought not desirable to levy the tax. It was accordingly to be got rid of when a provision should be made in lieu of it, and they would thus be enabled to get rid of an invidious subject of annual discussion.

Clause, as amended, *agreed to*.

Clause 43.

MR. BLACKETT said, as this was the last clause, he would beg to call attention to the difficulty that must arise under the new Act from the exercise of the veto possessed by the Vice Chancellor on the acts of Convocation. Hitherto no measure could be introduced into Convocation that had not passed the Hebdomadal Board, made up of heads of houses and proctors, over which the Vice Chancellor exercised a commanding influence. All the persons composing it had the same interest, and therefore there never was any inducement to the Vice Chancellor to extend his veto to a measure when introduced into Convocation after it had passed the Hebdomadal Board. But the Hebdomadal Council, according to the new constitution, would stand in the place of the Hebdomadal Board. The new body would be entirely different in constitution and character from its predecessor, and would be composed of elements which might possibly put the Vice Chancellor and the heads of houses in a minority on that Board. Now it was conceivable that a measure might be passed in the Hebdomadal Council by the votes of professors and masters of arts, and when it came into Convocation, the Vice Chancellor might use his veto to cancel it. It could never be contemplated to leave in the hands of the Vice Chancellor the power to neutralise all the effective legislation that might be introduced by the Hebdomadal Council, and it was very desirable that that power should be taken away from the Vice Chancellor.

THE SOLICITOR GENERAL said, he

did not agree in the construction put upon the clause to which the hon. Gentleman had referred. It did not appear to him that the veto of the Vice Chancellor could be exercised in the way suggested by the hon. Gentleman. It was expressly enacted by the 19th clause, that every Statute accepted by Congregation should afterwards be submitted to Convocation for final adoption or rejection, and consequently the decision of the Hebdomadal Council could not be interfered with by any veto of the Vice Chancellor. Supposing the veto of the Vice Chancellor to exist, it would not be in the smallest degree confirmed or strengthened by anything contained in the 43rd clause, but in his opinion the veto would no longer exist.

MR. BLACKETT said, he had never stated that the 43rd clause had reference to his objection, but merely availed himself of the opportunity presented by its being proposed to call attention to this defect in the Bill.

THE SOLICITOR GENERAL said, he was of opinion, that any Statute which it was agreed should be submitted to Congregation, could not be withdrawn by any veto of the Vice Chancellor.

*Clause agreed to.*

Schedule A was brought up, containing the names of the following persons, who were proposed to form part of Congregation, the names of the other Members having been set forth in the 17th clause of the Bill:—The Deputy Steward, the Public Orator, the Keeper of the Archives, the Assessor of the Vice Chancellor's Court, Registrar of the University, Counsel of the University, Bodley's Librarian, Librarian and Sub-librarian of University Libraries, and Keepers of University Museums and Repositories of Art or Science, if authorised for the purposes of the Schedule by the Statute of the University. It was proposed to insert "Radcliffe Librarian, and Radcliffe Observer" after "Bodley's Librarian."

The proposition *agreed to*, and the Schedule, as amended, was adopted.

MR. GRANVILLE VERNON said, he begged to move, after Clause 24, to insert clauses to the effect that a register of the names of members of Convocation should be kept by a Bedel or some other officer of the University, and should be freely accessible; and that graduates of the University who should have made all necessary payments previously to their having taken

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such a degree as should entitle them to be members of Convocation should not be required to make further payment of any sum or sums of money for collegiate or other than University purposes, as a condition of their qualification to be members of and to vote in Convocation; and that all such graduates as had ceased to be members of the University by reason of their names having ceased to be upon the books of a particular college or hall, might, if not otherwise disqualified, claim to be registered as members of Convocation, and, upon payment by them of any arrears of University fees or dues accruing since such graduates should have ceased to be members of the University, or upon payment by them of such composition as the University might sanction, their names should be inserted upon the register. Everybody knew that now each member of a college or hall, in order to keep his name on the books, must pay certain fees for that purpose, but he considered that every member of the University who had taken the degree of Doctor, or of Master of Arts, although he might have ceased to have his name on the books of his college, ought to be considered so far a part of the University, independently of his college, as not to be deprived of his rights in connection with the University in contradistinction to his collegiate right. He thought, also, the University would do well to allow some means of composition to doctors and masters of arts relative to all University payments on future occasions; and it ought not, certainly, to be a *sine quâ non*, that, because a man ceased to be a member of his college, therefore he should be looked upon as no longer a member of the University, or entitled to his right of voting in Convocation.

THE CHANCELLOR OF THE EXCHEQUER said, he was ready to admit that the clauses might be very proper in themselves, but he thought his hon. Friend would do better to send them down for discussion to the Hebdomadal Council, where he thought they would meet with a favourable reception; but he did not think that the subjects to which they referred were matters with which the Committee would do well to interfere. If the Committee were to go into matters of small detail, there were more flagrant anomalies than the present with which they might deal; but he thought it would be much better, that after they had provided a good government for the University, they should

leave that government to deal with all questions of detail. He was the more anxious on this point, as he observed that the hon. Member for North Lancashire (Mr. Heywood) had given notice of a whole host of clauses relating to details, but he hoped that that House would at once take its stand upon this principle, that, having provided a government for the University, they would not interfere with the free working of that government.

MR. ROBERT PHILLIMORE thought the matters referred to in the clause well worthy of consideration.

MR. GRANVILLE VERNON said, that, though he denied that this was a question of detail, he would not press his clauses.

MR. ROUNDELL PALMER said, he would now beg to move the following clause—

"If, in the execution of the powers of this Act, it shall be proposed by any College, or by the Commissioners, to make any regulation or ordinance for the abolition of any privilege, or right of preference in elections to any emolument within any College, now lawfully belonging to any School or other place of education beyond the precincts of the University, notice thereof shall be given in writing to the Governing Body of such School or place of education, and also to the Commissioners appointed under the Charitable Trusts Act, 1853, at least two calendar months before any final resolution for that purpose shall be adopted by such College, or by the Commissioners; and no such regulation or ordinance shall be made, if, within two calendar months after receiving such notice, two-thirds of the said Governing Body, or the said Commissioners appointed under the Charitable Trusts Act, 1853, shall, by writing, under their hands and seals, declare their opinion that such regulation or ordinance would be prejudicial to such school or place of education: Provided always, nevertheless, That every such privilege or right of preference, when retained, shall be subject to all such regulations and ordinances as may be made by any College, or by the Commissioners, under the powers given by this Act, for the purpose of making such emolument more conducive to the mutual benefit of such College and such School or place of education as aforesaid."

The powers which this Bill gave the Commissioners referred to all sorts of endowments and emoluments of an educational character, whether they were paid out of the revenues and provisions belonging to the colleges themselves, or whether they belonged to institutions external to the colleges and connected with the different schools throughout the country; the consequence was that there were two distinct classes of endowments which were interfered with in the Bill—the endowments which were provided out of the college re-

venues, and next, the scholarships and exhibitions paid out of revenues provided by other institutions. Hence, the Commissioners had power not only to deprive the schools of the exhibitions which were provided for them out of funds which the colleges provided, but they had power also to confiscate revenues which the colleges had not provided at all. It was true this power was guarded in the case of the Commissioners by being subject to the dissent of two-thirds of the governing body of the colleges. But, notwithstanding this provision, it was most objectionable, and he was sure all would concur in that view, and in the desirableness of altering the law so as to prevent the Commissioners from making regulations in the case of schools which might destroy their value. Now, he proposed by his clause to give to all those external bodies to whom was now confided the care of these endowments, the same liberty of dissent on cause shown which was proposed to be given to the colleges themselves. Now, what he proposed was to provide that the colleges and the Commissioners, before taking away the existing endowments, should give the Charity Commissioners, who were appointed, by the Bill passed last year, the guardians of all these endowments, two months' notice of their intention to alter the existing arrangements; and if they thought that that alteration would be prejudicial, then they should have the same power of dissent as the present Bill allowed to the governing body of the colleges. He might be asked why he did not go further, and allow the Commissioners and the colleges to make regulations and ordinances for the mutual benefit of the schools? It was necessary such a power should reside somewhere. It did not, however, appear necessary to extend what he would term the consultation principle inconveniently. He did not think that consultation should be resorted to on every small question of regulation or modification of privileges of students. The clause had been considered carefully, and he was not afraid of criticism. He would, in explanation, say he conceived it was the duty of the Committee to pay regard to the different schools throughout the country connected with the Universities. They were all educational branches, and the small schools in their place and degree were not less important than the larger schools. He demurred to the principle which appeared to be laid down in this measure, that the importance of a

school was to be measured by the accident of the particular numbers that were attending it at any given time. It was in the knowledge of most Members that all their great schools had fluctuations at different times. The Charter House, Rugby, Harrow, and other schools had at different times been as low in point of numbers as to be near the limits, if they did not pass the limits, fixed by this Bill; but it seemed to him most unreasonable that, when a school was in a low or declining state, they were to take away what was its great stimulus to improvement—its connection with one or other of the colleges. It might be said that it was of no importance to keep up a particular school, for if the scholars were not at the Charter House they would be at Rugby, or if not at Winchester they would be at Harrow. He totally dissented from that mode of reasoning. It was of great importance, in his opinion, that they should have good schools in different parts of the country, that they should keep them in a high degree of efficiency, and that they should make them better if possible. Besides, he thought it was not at all unworthy of them to indulge feeling, or even imagination, in this case. The monuments of great men were universally respected, and there was no monument that more deserved respect than those foundations of their ancestors of which every year taught them more and more the value. The question, then, was, did these exhibitions tend to the prosperity of the schools? Manifestly they did. Merchant Taylors' School had thirty-seven fellowships in St. John's College, Oxford, to which they had a right, and six more in which they had a contingent interest, and these fellowships were the real endowment of the school. He quoted the opinion of Dr. Hessey, the head master of Merchant Taylors' School, who stated that the school had many disadvantages from its position in the heart of London and otherwise, which were only counterbalanced in the minds of parents by the knowledge that a boy of abilities and diligence might obtain a fellowship at Oxford. A similar opinion had been given by Mr. Collis, head master of Bromsgrove School, Worcestershire, of the connection between his school and Worcester College. The largest and most important case of the kind was Winchester School, in connection with New College, Oxford. The connection between that school and the college had been made to bear the whole brunt of the controversy,

*Mr. R. Palmer*

and on the same principle that people became tired of hearing Aristides called the Just, he had even seen attacks made in the newspapers upon the memory of William of Wykeham. That great man had founded the two institutions to be in mutual connection with each other—he had made the governors of each take an oath to observe the Statutes of the other, as it was his wish that Winchester should become the nursery of wholesome roots for New College. The number of scholars at Winchester had never been great—its greatest limit he believed was 200. Now if they destroyed the connection between the school and the college, he could not doubt that the result would be the destruction of Winchester School altogether, and he thought they might as well confiscate the revenues of New College in order to found some new school in the neighbourhood of London, as take away the privileges which the Winchester students enjoyed in that college. The exhibitions of Tiverton School and the Snell exhibitions, both connected with Balliol College, were examples of a different sort. These were not college funds at all, but they were trust funds, altogether external to the college. Mr. Blundell, the founder of the Tiverton School, gave 2,000*l.* for the establishment of scholarships. By a deed of composition between his trustees and the college, the latter received the money, and undertook to receive the scholars. Was it fair now to say that Balliol College might keep the money and refuse the scholars with the consent of the trustees? Another case was that of the Snell bequest, and the connection it established between Glasgow University and Oxford. After some litigation as to the terms of the bequest, it was decided by the Court of Chancery that the University of Glasgow was entitled to the benefit of the endowment, and exhibitions accordingly had been established at Oxford with the most beneficial effect. The doctrine now was that the exhibitions were college emoluments, and that the college might alter or abolish them. The importance to Westminster School of its connection with Christ Church was so well known to many present that he need not dwell upon it. To show what gross injustice might be done if they passed this Bill without some safeguard for protecting the designs of founders, he would refer them to the case of the Free Grammar School at Abingdon, in connection with Pembroke College.

Abingdon School was the fountain head of Pembroke College; Pembroke College existed on account of Abingdon School, and not Abingdon School on account of Pembroke College. The college was founded for the purpose of supplying fellowships which the founder of Abingdon School desired to establish. It was possible, perhaps, to give better effect to the existing regulations by introducing others; but to say that a power should be created to alienate the fellowships from the school, foundations which had existed from the beginning, so long as any person interested remained, appeared to him subversive of every principle of justice. Abingdon School was another example of the impropriety of the numerical qualification contained in the Bill as originally introduced. He had, however, by no means exhausted the instances which might be produced; he had only mentioned some of the most prominent examples, and having heard them, he hoped the Committee would accede to the principle of his clause, and see the justice of giving to the governing bodies of these different places of education the right of being consulted, and of a veto, if the interests of their schools should be prejudicially affected by any proposal, either from the colleges or from the Commissioners, for their destruction. If such a clause were not adopted, the Committee would be legislating on this part of the subject wholly without inquiry. The House of Commons had made no inquiry whether the interests of the schools would be affected, nor had the University Commissioners entered into the question. No doubt the Commissioners stated that a connection existed between different colleges and schools; but how such interests might be affected by the alteration or removal of existing rights the Commissioners had not inquired, for they had not the power, and they had given no information on the subject. The clause omitted the parties to those who were acquainted with the subject, for the governing bodies must know how their schools would be affected by any proposed change, while they were a more disinterested and impartial body than the colleges themselves. He had also provided in the clause that the Charity Commissioners should be consulted before any final resolution was adopted by any college or by the Commissioners, because to them had been committed the general care of all charities, and it would be inex-

pedient not to consult them, even if the governing bodies and trustees of local schools were not negligent.

Clause brought up, and read 1<sup>o</sup>.

THE CHANCELLOR OF THE EXCHEQUER said, he must draw a distinction between the speech and the clause of his hon. and learned Friend. As far as regarded the speech, it contained much very well worthy the consideration of the Hebdomadal Council, when that body came to deal with the matters which this Bill proposed to confide to their discretion; and as far as regarded the clause, it was unnecessary, because the Bill already provided means which would accomplish the main object in view. The observations of his hon. and learned Friend might very well be addressed to the body appointed under the Bill to consider the class of cases to which allusion had been made; and provision was already made that the persons interested in any endowment proposed to be dealt with might have a full and impartial hearing before a tribunal of great authority and responsibility—namely, the Committee of Privy Council, which must in every case comprise at least two judicial persons. It was provided in the 34th clause that when the Commissioners should have laid any of their ordinances or schemes before Her Majesty in Council, they should be published in the *London Gazette*; that no Order in Council should be made until after the expiration of one calendar month from the date of the application; and that, in that interval, it should be lawful for any trustee, governor, or patron of any University or college emolument, or for any other person directly affected, to petition Her Majesty in Council to be heard, and to be heard by counsel learned in the law at such hearing. The House had made this provision for the protection of this class of interests, and he submitted it was a satisfactory protection; first, because the parties who had such interests would be the best judges whether they were unjustly dealt with by any proposed scheme of the Commissioners, and next, whether the interests of the school or place of education that might be affected were such as ought to be defended before the Privy Council. It seemed to him, further, that his hon. and learned Friend's clause would involve the whole operation of the Bill, so far as concerned colleges connected with schools, in inextricable confusion and absurdity; so much so that he could hardly think his hon. and learned

Friend had considered the scope and tendency of the alterations he proposed, either as regarded their principle or their practicability. As regarded the practicability of the proposal, without having regard to the Charitable Trust Commissioners, and taking only the main part of the clause into view, he thought it would lead to confusion. The main part of the clause required this—that in the case of any school or place of education which had any privilege or right of preference in the University, when the Commissioners proposed any scheme or ordinance that would abolish any right or preference, it should be their duty to give two months' notice in writing; and that the governing body of such school or place of education should be invested with an absolute veto upon the scheme or ordinance, when they thought such scheme or ordinance would be prejudicial to the school as a place of learning and education. In his opinion the Committee had very justifiably gone great lengths in giving an absolute power of dissent to the governing bodies of colleges; but why? Because, when we spoke of colleges, we knew with whom we were dealing; we knew they were bodies who had a deep and real interest in the welfare of the colleges; that they were made the subjects of Parliamentary cognisance and regulation, and that, if they refused to allow the intervention of the Commissioners, they might be again made the subjects of Parliamentary intervention. But not one of these considerations applied to the governing bodies of these schools. What were they? Were they corporations known to the law, consisting of a fixed number of members, acting in the face of day, and responsible to the opinions of society? On the contrary, they were private individuals, they were often self-elected, and they were bodies that might be packed, if need be, for the purpose of obtaining a majority of two-thirds, for instance, if such were necessary. On the other hand, when we spoke of a college in which a majority of two-thirds was necessary to carry a measure, we knew that no additions could be made to the governing body. But in the case of these schools, where there were twenty-one trustees, and eleven were for a particular plan and ten were not, the eleven might appoint ten others, and so make the number of trustees thirty-one, and do what they pleased. [Mr. R. PALMER said, that trustees had no such power.] He must beg to say that trustees of schools with which

*The Chancellor of the Exchequer*

he was acquainted had such a power, and that trustees continued to be self-elected from time to time. [Mr. ROUNDELL PALMER: I dissent entirely from that statement.] That might be; but he begged to repeat distinctly that the number of trustees of grammar schools, in the instances that he was acquainted with, was not limited. The trustees had the power of appointing themselves, and of adding to their number without limitation. He happened himself to be a trustee of one grammar school where this was the case. But he wished the Committee to consider upon what principle they should give the veto to the trustees of these schools. Why was this particular of interests to have protection over and above that which was granted to other interests? Was it less easy for them to defend themselves? With the exception of that interest which was affected by the Attorney's Certificate Duty, he knew no interest which rallied so easily and appealed so powerfully to so great a mass of laudable but strong prepossessions as the interest with which this clause dealt. He knew of no interest which would be so able to avail themselves of the protection which the Bill afforded them of a full hearing before the Privy Council, as the school interest. In the case of the people of Guernsey and Jersey who had endowments in Oxford, how did the Bill proceed? They were not protected by saying that the Governors and Councils of Guernsey and Jersey should have two months' notice before anything was proposed which might affect their emoluments, that they should have the power of putting an end to the scheme. They were left subject to the general operation of the Bill, which gave them the right of an appeal to the Privy Council should they think fit. The case was the same, if not stronger, with regard to the people of Wales. Wales, at present, had the absolute and exclusive right to the entire emoluments of a particular college. But, if they asked how they were to be protected, the answer was, that means had been provided them of becoming acquainted with the schemes in which they might be interested by their being published in the *London Gazette*, and they could then petition the Queen in Council, and obtain a fair hearing in reference to those schemes. The case was exactly the same with regard to founders' kin and the sons of the clergy; and he contended that the protection which was

deemed sufficient in all these cases was quite adequate in regard to schools. But he wished to know how the clause was to operate, because on this point he conceived it would lead to confusion, not to say absurdity. Take Worcester College—

"The fellows were to be elected from the scholars; the scholars from the schools of Bromsgrove or Feckenham, or, in default of fit and able candidates (*apti, habiles et idonei*), from the Cathedral School of Worcester, from the schools of Hartlebury or Kidderminster, or, these failing, from any school in Worcestershire."

Now he put it to the Committee whether it would not be absurd to require to send and discover the governing bodies of every endowed school. Many of these schools might be endowed with only 10*l.* a year, and had sunk out of notice; yet the Committee were asked to enact that, unless the Commissioners found out these schools, their schemes should be liable to be declared illegal. Then there was the case of St. John's College, particularly with respect to Merchant Taylors' School—

"Of the fifty fellowships, constituted by the founder, seven were allotted to the schools of Bristol, Coventry, Reading, and Tonbridge. The three first-named schools were to send two scholars to the college, and Tonbridge one. The scholars sent from these schools are chosen, in the first instance, by the municipal authorities of the respective towns; except in the case of Tonbridge, where, there being no corporation, the vicar and principal inhabitants appoint. The remaining forty-three fellows were to be chosen from the boys educated in the City of London, but with a strong preference to those educated at Merchant Taylors' School. If no duly qualified persons are found in Merchant Taylors' School, the electors are to look for scholars from Christ's Hospital; if none can be found there, they are then to elect from any school in London or its suburbs; and if none can be found within these limits, then scholars may be chosen from any part of England."

He hoped the Committee would decline to adopt a clause which would involve them in such confusion and absurdity, and besides, he did not think it would be right or just in principle to commit to each of the little schools which came within the scope of the clause the decision of questions of great public interest. The governors of those schools were only bound to look to the narrowest view of the interests of their own seminaries, and he would remind them that, in proportion as the schools were bad, the withdrawal of the preferences they enjoyed would be prejudicial to them, and, therefore, the protection they were called upon to give was not to good, but to bad schools. It would be futile, he thought, to endeavour to apply to schools the same rules as they had applied to the governing

bodies of colleges, and, considering the immense scope of these founders' wills in many instances, and the way in which they had endeavoured to provide for wide and scattered districts, the effect of the hon. and learned Member's clause would be to reduce the Bill to a state of impotence, and to disappoint very much the expectations of those who had been labouring for the improvement of Oxford institutions.

SIR WILLIAM HEATHCOTE said, the right hon. Gentleman had objected to the clause; but a great deal of what he had said against it might be dismissed as mere verbal criticism. It must be clear to the Committee that his hon. and learned Friend (Mr. R. Palmer) had no intention whatever, from the language of the clause, of reserving the distant and remote rights of schools. He had merely spoken of the schools themselves in the first instance, and had no intention whatever of going into remote cases. With regard to the main point, why indulgence should be given to schools rather than to any other form of protection, the right hon. Gentleman had overlooked two circumstances to which it was necessary to recall the Committee. He had first forgotten that the language of the clause related especially to total abolition, and not to regulations that might be made to meet many of the objections to the clause, and put the emoluments upon a very different footing from that which they now occupied. The question was one of complete abrogation, and not whether they were to shut out the advantageous operation of the powers which the Commissioners might possess. The next point he wished the Committee to remember was, that this was a question relating to another branch than the colleges of the educational establishments of the country. It was not merely as to local preferences, but whether the keeping up of these endowments of colleges was not a cheap and efficacious manner of keeping up in all parts of the country schools which there was no power of preserving without such extraneous aid. Merchant Taylors' School was a remarkable instance. It was a school which could not long exist without the association with St. John's; and in the more remote parts of the country it would be continually found that schools existed only upon the strength of those very emoluments which the Committee was asked to take away with so rigorous a hand. These schools appeared to him to be the best mode of assisting local preferences. Two or three scholarships in a

county produced nothing sensibly, but if those two or three scholarships kept up a school of 100 boys, they promoted education throughout a much larger sphere than the scholarships themselves. Such considerations as these he thought should induce the Committee to put aside the reasoning of the right hon. Gentleman against the clause.

MR. ROBERT PHILLIMORE said, that it was with the most unfeigned reluctance that he found himself compelled to differ from the Chancellor of the Exchequer upon this point, and to give his vote for the proposition of the hon. and learned Member for Plymouth. He agreed with the hon. Baronet the Member for Oxford (Sir W. Heathcote) in thinking that the important matter to be considered was not the particular scholarships, but the general advantages which these schools derived from their exhibitions. All the great schools in London had immense difficulties to struggle with, and to do away with these exhibitions would be to sign their death-warrants. It was not correct to say that these exhibitions had been the means of fostering a bad system of education. Out of 166 students sent from Westminster School to Oxford since 1807, no fewer than ninety had obtained honours; and he trusted that nothing would be done to injure an educational institution which had produced three such distinguished members of the Cabinet as the right hon. Baronet the First Lord of the Admiralty, the Marquess of Lansdowne, and the noble Lord the President of the Council. For his own part, if he gave his sanction to any such proposal he would be guilty of parricide, and would deserve to be tied in a sack and thrown into the Thames.

MR. W. LOCKHART said, that he had drawn the attention of the Committee on a former occasion to the unjust manner in which this Bill might affect certain exhibitions from Glasgow College to the University of Oxford. The subject had been referred to in the speech of the hon. and learned Member for Plymouth (Mr. R. Palmer), and the Chancellor of the Exchequer well knew that it had caused great excitement in Scotland, yet he had studiously evaded all notice of it. Neither had any answer been given to a memorial from the Senate of the University of Glasgow, which brought the case under the consideration of Government. He must, therefore, ask leave of the Committee to explain it. Upwards of two hundred years

*Sir W. Heathcote*

ago an accomplished gentleman (Mr. Snell), who had commenced his studies at the University of Glasgow, removed to Oxford, where he completed them. He experienced eventually so much benefit from this combined course of education, that he formed the benevolent design of providing the same advantages for a certain number of distinguished students of the Scotch universities, who were not in affluent circumstances. With this view he devised an estate to trustees, the rents of which he directed to be applied to the establishment of exhibitions to Oxford, the conditions being that the candidate should have studied a certain number of years at a Scotch university, one, at the least, of which he must have spent at Glasgow College—and the nomination was vested in the Principal and Professors thereof. It is not pretended that this patronage has been abused, or that the right of Balliol College to reject unqualified students has in any one instance been exercised. On the contrary, but for these exhibitions many great and distinguished men—Adam Smith amongst others—might have lived and died unhonoured and unknown. Nothing could have been more praiseworthy or patriotic than such a bequest, and it is manifest that its advantages have not been confined to Scotland. It has been, however, unfortunately the cause of much litigation. The hon. and learned Member for Plymouth, in his able speech, quoted a remarkable decision which was pronounced by the Court of Chancery a century and a half ago; but he did not mention that the question had been again brought before the courts of law so lately as 1848. An attempt was then made to wrest these exhibitions from the ancient Universities, and to transfer them to a recently established Episcopalian College in Scotland. This was no proceeding of the Episcopalian body in that part of the kingdom. It was not sanctioned by their bishops, and it was not only disapproved of, but denounced by many of its most influential members. The action was raised by a few private individuals, but an unhesitating decision was pronounced by the House of Lords in favour of Glasgow College, with costs against their opponents. It is to be regretted that a report should have gained currency in Scotland that the right hon. Gentleman the Chancellor of the Exchequer, who is a trustee of the institution in question, had identified himself with proceedings which have thus been declared to

be contrary to law and justice. He has distinctly denied that he had any connection with them, or that he had assisted by a subscription to defray the costs; but this has really nothing to do with the question. The simple fact is, that this Bill may effect the object they aimed at. As originally framed, and even as now altered, it leaves it to a Board of Commissioners in England to deal with these exhibitions without the consent of Glasgow College, or perhaps even without their knowledge. Thereby it violates the treaty of Union, which distinctly guaranteed to the people of Scotland, "that their private rights should not be interfered with, except for their evident utility." It has, indeed, been too much the custom of late to disregard ancient treaties, but the day, it is to be hoped, is distant when private rights shall be so dealt with. One of these Glasgow exhibitioners has just gained the Arnold Prize for a historical essay on the advantages of the Union, but he would have had some difficulty in proving this to be one of them. The people of Scotland were filled with indignation when they discovered that, in a Bill for the better government of an English University, clauses were introduced to rob Scottish students of rights which have existed for nearly two centuries. This clause will save the Snell bequest from confiscation, and it is to be hoped hon. Members connected with Scotland will, on that account, give it their warmest support.

Lord JOHN RUSSELL said, that the argument addressed to the Committee by the hon. and learned Member for Plymouth did not convey a correct idea of the question before them. One might suppose that it was proposed by the Bill that the privileges and preferences of the various schools, such as Westminster, Merchant Taylors', and the Snell exhibitions, should be abolished by this Bill. But that was not the question, and there was not the slightest possibility that any really good school, which promoted the interest of learning by sending scholars to the University, would be at all affected by the Bill. In the first place, it was not at all likely that any Statute would be framed, either by the Commissioners or by the University, affecting or abolishing the privileges of such schools. But if any such proposals were made, before such privileges were taken away the matter would come under the decision of five members of the Privy Council, two of whom must be legal members of the Judicial Com-

mittee. If the proposed alterations were approved by them, and if they were also agreed to by Her Majesty in Council, then they would be laid before Parliament; but either House of Parliament might present an Address to Her Majesty, the effect of which would be to render the proposed Statutes null and void. The question was, whether by a clause of this kind Parliament would preserve the privileges of very bad and inferior schools, which, by the founders' wills, had obtained these privileges. There was a school of this kind in the University of Cambridge, which had gone to decay, which was attended by very few pupils, and by which the interests of learning were very little promoted. The effect of this clause was to preserve from improvement all these bad schools which, originally founded for the benefit of learning, now no longer promoted that object. If further securities besides those he had mentioned were wanted to prevent ill-considered alterations in the management of these schools, and to protect them against a wanton abuse of power, let such securities be considered, but he could not agree to a clause the effect of which would be to preserve all the privileges of the inferior, the bad, and the decayed schools.

Mr. WALPOLE said, he could not allow this discussion to pass without entering his solemn and earnest protest against the principle announced by the Chancellor of the Exchequer and the noble Lord the President of the Council. Two arguments had been urged on the part of the Government against the proposition of the hon. and learned Member for Plymouth—one a matter of form, and the other a matter of principle. The hon. and learned Member was not anxious about the matter of form, if the House supported the principle. Now, what was that principle? It was that of preserving the rights of others, which were to be taken away by those who were not entitled to interfere. The noble Lord the President of the Council said that the effect of the clause would be to keep on foot bad schools and prevent improvement. But, under the plea of improving the colleges, the promoters of the Bill were subverting rights which were independent of those colleges. Many of these schools were founded, not for the benefit of the colleges, but in most instances the colleges were founded for the benefit of the schools. What right had they, then, under the plea of reforming the colleges, to take away the rights of the

schools? Neither the Chancellor of the Exchequer nor the President of the Council had mentioned a single bad school, while, on the other hand, many good schools had been brought forward which had produced distinguished and useful members of society, and conferred the blessings of a sound education upon thousands of persons. His hon. and learned Friend had said, and nobody had answered him, that they should look at this question partly as a matter of reason and partly as a matter of feeling. Nations were, in truth, as much governed by feelings and even by prejudices as they were by reason; and he would respectfully advise the Government to act upon that consideration in the present instance. But it was said that the promoters of the Bill had a general object in view—the promotion of University education—and some appeared to imagine that a special object was inconsistent with the general one. The fact was not so; it was possible to have both a general and a special intention, and it was for that reason that we had local institutions in this country. Again, the Chancellor of the Exchequer and the President of the Council had proceeded upon the assumption that they had given by a clause in the Bill the power of rectifying a wrong if the colleges or the Commissioners should do that wrong. None of their legislation ought to proceed upon that principle. Where there was a particular right it was their duty to preserve it, even although the right in some respects be contrary to or inconsistent with the general provisions of their measure; and the argument urged from the Treasury bench amounted to this, that they were at liberty to give to particular individuals the power of assailing the rights of others, trusting to some tribunal to maintain and defend them. He apprehended, however, that the proper principle to proceed upon was, not to allow those rights to be assailed by others in the first instance. If the Government had agreed to the Amendment of the hon. Member for the University of Oxford (Sir W. Heathcote), that the main designs of the founders and donors should be preserved, there would have been a ground for the Judicial Committee to determine whether those designs were preserved or not; but by refusing to insert that clause they left the whole matter ambiguous, and merely addressed to the Committee the plausible argument that equitable considerations would be taken into account when

*Mr. Walpole*

the question came to be decided before the Judicial Committee, when they knew that there could be no such thing as equitable considerations to be interpreted by law, unless those considerations were to be decided with reference to certain principles which would enable the Court to act upon them. The tribunal of appeal would have no means by which it could be guided, and it would therefore be apt to usurp the place of the Legislature, and determine, not what ought to be done, but what it considered might with propriety be done. He thought this Bill ought not to be parted with before they knew distinctly from the Government whether, for the first time in the history of this country, the main designs and intentions of the benevolent founders were to be deliberately set aside, not by a case made against them—for case they had made none—but because they wished by some latitudinarian privilege to give power to a Court which would have no means of guiding its judgment to regulate the colleges of Oxford in such a manner as would take away the rights of schools, though those schools had never abused their trust, but, on the contrary, had exercised it in a way to confer great and inestimable benefits upon the country.

THE SOLICITOR GENERAL said, he should be sorry if the address of his right hon. Friend who had last addressed the Committee was merited by the provisions of the Bill. He begged of the Committee to understand that nothing could be more incorrect, nothing more unjust, than the representation just given with such warmth and ability of the principles of the Bill. He could assure hon. Gentlemen that it would not be in the power of any one, acting either upon the wording or according to the spirit of the Bill, to touch any of those institutions that really did advance the interests of learning and religion. The first power given by the Bill was a power to ensure the emoluments enjoyed by the colleges being conferred according to personal merit. If young men were to be sent up to the University to attain its emoluments and benefits, care ought to be taken that they were selected upon grounds that would enable them to be a credit to the place from whence they came, and that a spirit of competition was preserved at the institution that sent them up. He regretted very much, however, to see such great talent and ability applied to the substituting before the Committee something else in lieu of the real

question, which appealed to their feelings, their prejudices, and their passions, and which was capable of being accepted by those who were led away from the real point at issue. His right hon. Friend the Chancellor of the Exchequer had clearly shown that the clause now proposed would give to those who were interested in preventing improvement power to obstruct beneficial arrangements recommended by the Commissioners. The reason why the Government objected to the introduction of the words, "the main designs of the founders," when they were proposed by the hon. Member for the University of Oxford was, that their introduction would have hampered the Commissioners in carrying out the principle of the measure, which was the advancement of the interests of learning, religion, and education, by making the enjoyment of all emoluments and rewards dependent on personal merit. If the principle of the right hon. Gentleman was carried into effect, instead of a spirit of competition being introduced into these foundations, they would remain a prey to the same state of inactivity to which many of them were now reduced. The designs of the donors of these charities could not be expressed in words more proper for the occasion, or in words more conclusively directed to the enunciation of what ought to be the rules under which they should exist, than the words that had been employed—namely, "in the interests of religion and learning, and for the advancement of education;" for to promote such was the main design of the Bill. The fact was, that in the case of many of these grammar schools the particular localities for which they were founded not being able of themselves to supply a sufficient number of scholars, individuals from other places were received into them, and they became mere proprietary schools. It resulted from this state of things that instead of there being competition amongst those that were sent up to the University, only one or two came up to contend for the emoluments attached to the foundation. Now, that was an evil which would be repressed by the Bill. Of course in the case of Westminster School and Merchant Taylors' School, there would be no interference whatever, for there the evil was not felt.

SIR THOMAS ACLAND said, he wished to make a few observations on what had fallen from the hon. and learned Solicitor General. It might be perfectly

true that the great object of the Bill was to promote the interests of religion and learning to the greatest possible extent which the resources of the University could attain; but he would say, in answer to the hon. and learned Gentleman, that in this particular instance, at all events, Ministers were endeavouring to bring about that object at the cost of parties who did not deserve such treatment at their hands—of parties who had not been heard in their defence. There were three classes of persons affected by the Bill: first, there was that portion of the public that desired the improvement of the University, and to share more largely in the emoluments of the University—those incentives to diligence and study—than they had hitherto done, for fame was not the only inducement to men to lead laborious days. But if to do this they would interfere with these charitable institutions, he would warn them such charities must be dealt with with the utmost tenderness, and that they could not be touched rashly or with impunity. They might depend upon it that the principles which had influenced the establishment of those foundations were principles adapted to all times; that they were deeply rooted in the affections of the people, and they could never be put out of sight even upon such grounds as had been that night proclaimed. The next party affected by the Bill were the colleges of the University; but their interests had been amply provided for, and they obtained a strong voice in the administration of their affairs, and every inducement to improve the system. Why, then, should not these foundations also be placed in a position to meet the Commissioners upon equal terms? But what did they propose to do for the third party—namely, for those persons whose money they were about to take and apply to other purposes? Why, the right hon. Gentleman the Chancellor of the Exchequer informed the Committee, forsooth, that they were provided with an appeal to the Privy Council. That was to say, after the colleges and Commissioners had agreed, in consultation, upon some means of applying the resources of these parties, whose all was at stake, some half-dozen trustees were told they might go before the Privy Council and argue their case on appeal. They would have him believe that the interests of these schools would be taken care of. He believed that the interests of the colleges, and the interests

of those whom the Commissioners wished to advance, would be taken care of; but he very much doubted that there would be any identity between their interests and the interests of the schools. He would tell them that the interests of the schools would be set aside, because their money was wanted. He contended, therefore, that not only should the representatives of these foundations be allowed a hearing before their interests were disposed of, but that they should be allowed to share in all consultations between the colleges and the Commissioners where arrangements affecting them were to be concerted. Holding such views, then, he could not do otherwise than give his strongest support to the clause moved by the hon. and learned Member for Plymouth.

MR. JOHN MACGREGOR said, that, speaking on behalf of the University of Glasgow, he was ready to reject this clause. The object of the Bill was to adapt the purposes of these institutions to the circumstances of the times. Many of the designs of the founders, owing to the change of time and circumstances, had become great nuisances, as witness the case of Dulwich College, and hence the necessity for legislative interference. The clause of the hon. and learned Member contained much that was ingenious, but it went much further than he could consent to, and he should therefore vote against it.

MR. ROUNDELL PALMER, in reply, said, he would not detain the Committee with any lengthened observations, for in reality there was little or nothing to reply to. There had been a good deal of vehemence, and, as was always the case with his right hon. Friend the Chancellor of the Exchequer, ingenious and effective criticism on some defect which his quick eyes discovered in the wording of this clause, and that defect he had great satisfaction in saying he would certainly remove, should the clause be adopted by the Committee. Nothing was easier than to insert the words of qualification—specially naming the foundations and endowments, and thus there was an end of the argument about all those undiscovered schools in Worcestershire and in London, supported nobody knew how, and situated no one knew where, which his right hon. Friend threw in their faces. There would be no difficulty in carrying the clause into effect clearly and intelligibly, and it was not by that sort of criticism that either himself, or, he trusted, the Committee would be

Sir T. Acland

deterred from doing so. It showed how little the Government really knew how they were proceeding in this matter, when they heard right hon. Gentlemen stating that the trustees might increase their number *ad libitum* for the sake of creating a fictitious majority. Now, as a general rule, the governing bodies of those schools were either corporations—as in the case of Winchester—or trustees appointed in a definite manner and number, under deeds of charter. All that could happen was, that they might proceed to fill up any existing vacancies before they exercised their functions. But they knew what cases they were dealing with, and, after all, it was really nothing to the purpose and had no bearing whatever on the question. But what was to the purpose was that they were told, “To supply the place of this protection you can appeal to the Privy Council.” What was the Privy Council to which they were to appeal? Was it a judicial body at all? No. It was true they had added two judicial members, but it was clearly no effective appeal for purposes of protection. It might be a good body to exercise a political judgment. No doubt, they might be found good men to exercise a judgment in the spirit of the Act, but they would exercise it, not as a judicial, but a political function. If people were to have confidence in the exercise of that political function, on what principle must they act? The Bill was to make further provision for the good government and extension of the University of Oxford and the colleges thereof. There was not a word about schools. They had not to think of the interests of schools, except so far as they could view them through the medium of the University of Oxford and its colleges. The Act furnished them with no principle or *locus standi* to frame a scheme for any school whatever. His object, which he did not wish to disguise, was to preserve the schools—to make it a general rule that they should be preserved, and that means should be given to effect that object. In so far, therefore, as a scheme was beneficial to a school, the trustees would consent to it, but in every other case he hoped they would reject it. He, therefore, took his stand upon the principle, that they should not and ought not to be deprived of their present rights, without the intervention of their natural protectors and in the absence of all inquiry.

THE CHANCELLOR OF THE EXCHE-

QUER said he wished to know how the clause would work with regard to the right of preference? He would refer to one particular case, that of Worcester College, founded by Sir Thomas Cookes, in which there was a right of preference to the schools of Bromsgrove, Feckenham, Worcester, Hartlebury, and Kidderminster, in succession. He wished to know this:—Suppose the Commissioners sent down a scheme to do away with the rights of preference of these five schools, and the first four agree to make the sacrifice, but the fifth—Kidderminster, for instance—refused to do so—what would be the effect of that refusal with respect to the scheme itself?

MR. ROUNDELL PALMER said, that in that case the Commissioners might do what they pleased with the four assenting schools, leaving the school which dissented in the same position as before—that was to say, the rights of the four schools might be modified or consolidated in any way the Commissioners might think fit, and the other school would have no right to come in until the other four schools were provided for. However, the question of the right hon. Gentleman did not at all touch the principle of the clause.

THE CHANCELLOR OF THE EXCHEQUER said, he also wished to know whether the effect of the fifth school dissenting from the scheme of the Commissioners would not be to intercept entirely the plan of the Commissioners, although the other four schools, having prior rights, were willing to sacrifice their rights of preference?

MR. ROUNDELL PALMER said, he could really give no other answer than what he had just stated. There would be no power to place the school dissenting from the scheme in a worse situation than before, but anything might be done by the Commissioners which would not place that school in a worse situation. If, however, it was thought there would be any difficulty in this respect, the clause might be hereafter amended.

MR. WIGRAM said, if the principle of the clause should be adopted, he would propose an Amendment to meet the difficulty which had been suggested by the Chancellor of the Exchequer, by inserting in the clause the words "or two-thirds of the aggregate body, composed of the several governing bodies of such schools."

ADMIRAL WALCOTT observed, that being deeply attached to Winchester Col-

lege from many associations, and perfectly conversant with its history, he could not do otherwise than lament any measures likely to impair its efficiency. He had left to others the honourable task of vindicating its union with New College, Oxford, and its eminence as a school for learned men. For his own part, he could not but remember that many of the most distinguished officers in the sister services had been reared within its walls. To the Army it had given Generals Sir Charles Dalbiac, Sir William Myers, Sir Alexander Woodford, Sir Robert Wilson, Sir Andrew Barnard, and Lord Seaton; to that profession of which he was proud to be a member, it gave Admirals Raper, Sir Thomas Laire, Sir John Borlase Warren, and Sir Richard Keates. He should be failing in justice, also, if he did not add that many other illustrious officers had been brought up in the great public schools; a circumstance, the honour of which was due to Wykeham, who had formed their model, when he built the College at Winchester. St. Paul's had produced the Duke of Marlborough; Merchant Taylors', Lord Clive; Rugby, Sir Ralph Abercombe; Newcastle, Lord Collingwood; Norwich, Lord Nelson; Harrow can boast Lord Rodney; Westminster, Lord Keppel, Lord Harris, the Marquess of Anglesea, the Duke of Richmond, and Lord Raglan; and Eton, Lord Howe, the Marquess Cornwallis, and the Duke of Wellington. In every public school the boys retain in unfading memory those who, once members of the same community, have in the past distinguished themselves, wherever raised by ability or urged by lawful ambition, in professional life, in this House, or the highest business of the State. True as the needle—round which the compass card traverses, ever points to the pole, and ensures the safety of the ship—on their old common home the eyes of the public schoolboy are ever fixed, and his heart rallies round those inspiring recollections; thence he draws incentives of action, and examples of success which he desires to emulate, as at once honourable to himself and of service to his country. Need he add, then, how heartily he supported this Amendment?

THE CHANCELLOR OF THE EXCHEQUER said, he had a question to put to the hon. and learned Gentleman (Mr. Wigram), who proposed an Amendment to meet the difficulty he (the Chancellor of the Exchequer) had just stated. The hon. and learned Gentleman proposed that the

governing bodies of the several schools should be consolidated for the purpose of expressing their assent to, or dissent from, any scheme that might be proposed by the Commissioner. Now, he would mention the case of St. John's College. The founder gave a preference, in the first instance, to the Merchant Taylors' school, which was under the control of the Merchant Taylors' Company. That was a corporation. The next preference was given to Christ's Hospital, which was also a corporation. Consequently, the Amendment intended to be proposed by the hon. and learned Gentleman would require that two-thirds of these two corporations should give their assent to, or dissent from, any scheme that might affect the rights of those schools. The question he had to put was, how would the hon. and learned Gentleman arrive at a knowledge of the two-thirds and one-third of these two corporations?

Motion made, and Question put, "That the Clause be now read a Second Time."

The Committee divided :—Ayes 160; Noes 108: Majority 52.

MR. WIGRAM said, he would now propose as an Amendment to insert in the clause words providing that in cases in which several schools are interested in a privilege or preference, two-thirds of the aggregate body, composed of the governing bodies of such schools, should, for the purposes of this clause, stand in the place of the single governing body referred to in it.

Amendment *agreed to*.

MR. HEADLAM said, he wished to propose to substitute the word "and" for the word "or" in one portion of the clause, in order that it might read—

"And no such regulation or ordinance shall be made if, within two calendar months after receiving such notice, two-thirds of the said governing body, and (instead of or) the said Commissioners appointed under the Charitable Trusts Act, 1853, shall, by uniting under their hands and seals, declare their opinion that such regulation or ordinance would be prejudicial to such school or place of education."

That would give the concurrence of the governing body and the Commissioners to prevent the making of such an ordinance, and would prevent evil arising from the act of any governing body who might be disposed to hold out too much for the rights of their school.

MR. ROUNDELL PALMER said, he entirely objected to this Amendment, and he hoped that those who constituted the

*The Chancellor of the Exchequer*

majority on the last division would support him in doing so. The effect of the Amendment would be to accede to the principle that the presumption was in favour of the abolition of the right of preference. His view was that the presumption was against it. He thought that the governing body of a school would know much better than the Charity Commissioners what would and what would not be prejudicial to the interests of the school, and he should not consider that the opinion of those Commissioners in favour of a change was a sufficient reason for adopting it, if the local governors or trustees of a school thought that the change would be prejudicial to it.

Amendment *negatived*.

MR. WIGRAM said, he wished to move to add at the end of the clause the words—

"Provided always that where the governing body aforesaid shall be a corporate body, the governing body of the corporation shall be the governing body of the school."

Clause, as amended, *agreed to*.

The House resumed; Committee report progress.

#### BUSINESS OF THE HOUSE—MORNING SITTINGS.

LORD JOHN RUSSELL then moved the Order of the Day for the House to go into Committee of Supply.

SIR JOHN PAKINGTON said, he wished to make a few remarks both to the House and the noble Lord opposite (Lord John Russell), with regard to the present system of morning sittings. The noble Lord and the House, he thought, must feel that that system was not satisfactory, and that it ought to be regulated in some way which would prevent hon. Members being subject to that inconvenience, if not surprise, which was expressed by Scotch Members last night. He entertained the opinion that, in order to expedite business, and avoid the discredit as well as annoyance of sitting into August, as they had done, they must have recourse to morning sittings occasionally. But, at the same time, he was strongly of opinion that they ought to be adopted with the concurrence of the House, subject to certain rules which might be generally intelligible, as in the case of the Wednesday sittings. He would suggest to the noble Lord whether, when the period of the Session arrived when the Government deemed it desirable to have morning sittings, they ought not to be regulated by a Resolution of the House in

the same manner as the House had resolved this Session, and invariably did, that on Thursday Orders of the Day should have precedence of Notices of Motion. He would further propose that a morning sitting should only be adopted on due notice being given of the day. In consequence of Members getting up at one or two o'clock in the morning and moving that Bills should be taken at twelve o'clock sittings, it was quite impossible Members could know whether or not there would be a morning sitting on any given day. Perhaps the House was hardly aware that, according to the existing rules, it was competent for any Member who had charge of a Bill to rise at any hour, and to propose that it be taken at twelve o'clock in the day, and of this privilege Members frequently availed themselves. He likewise would recommend that not only the day, but the hour of a morning sitting should be fixed, and that they should limit themselves as nearly as possible at such sitting to taking Bills in Committee. He hoped also the noble Lord would agree that no fresh business should be taken after twelve o'clock at night.

LORD JOHN RUSSELL said, he hoped the House would not fetter itself too much by Resolutions. It appeared to him that the days of morning sittings should be fixed rather according to the quantity of business before the House, and the desire of the House to get through it speedily. It seemed to him that at this time of the Session to have morning sittings on Tuesdays and Thursdays only was quite sufficient, though towards the end of the Session it had been usual to have them on Fridays also, and sometimes on Mondays. The arrangement now made as to the hours of sitting was adopted in 1851 or 1852, and was deemed much more convenient than the former one, under which the House rose sometimes at two, three, four, or even five o'clock, and Members did not know when they would reassemble for the evening sitting, whereas at present it was now fixed that they should resume business at five or six o'clock. He did not give a positive opinion as to the necessity of maintaining the present arrangement; and if any improvement on it could be made, he should not be unwilling to consent to the alteration. He thought it was desirable that, when there was a morning sitting, the private business should be taken at twelve o'clock, in order that

when the House met in the afternoon, it might at once proceed to public business.

MR. HENLEY said, he fully concurred with the noble Lord that they would go on as well or better without a formal Resolution with respect to the days on which morning sittings should be held. He thought, however, that some arrangement should be made by which Members might know at what time the House would resume in the evening.

In reply to a question from Mr. BASS,

LORD JOHN RUSSELL said, he thought it was very desirable that when there was a morning sitting, no fresh business should be taken after twelve o'clock at night; but he did not think it desirable to pass a formal Resolution on the point.

Committee of Supply *deferred till Monday next.*

The House adjourned at half after One o'clock till *Monday next.*

## HOUSE OF LORDS,

*Monday, June 19, 1854.*

MINUTES.] PUBLIC BILLS.—2<sup>a</sup> Exhibition of 1851  
Commissioners; Public Statutes.  
*Reported*—Customs Duties.  
3<sup>d</sup> Excise Duties.

## THE WAR WITH RUSSIA—THE GERMAN POWERS.

LORD LYNTHURST: \* My Lords, I presume many of your Lordships have read the important document to which the notice refers. It is a memorandum sent by the Cabinets of Vienna and Berlin to their Envoys at the Diet of Frankfort, with directions to present it to that body. It states the course of policy which has been pursued by the Four Powers with respect to the Eastern question; and the object of the communication was to obtain the approval and sanction of the Diet to that policy.

The paper has not been laid upon your Lordships' table, and being a document between foreign States, it could not perhaps, in point of form, have been laid upon the table, at least not in the usual manner; but it has been published in the official journals of Vienna, Berlin, Frankfort, and Paris, and I believe in most of the journals throughout the Continent. It is a matter, therefore, of general notoriety.

The paper has given rise to much discussion, both on the Continent and in this

country, and has created no inconsiderable degree of anxiety and uneasiness. It is upon these grounds that I have felt it my duty to submit it to the attention of your Lordships and of Her Majesty's Government, in order that we may receive some distinct explanation, and come to a clear understanding, as to the policy to which it relates.

It is of so much importance to be accurate upon a subject of this nature, that I must beg leave to read those parts of the document to which I refer. The first passage to which I am about to call your Lordships' attention is in these words—

"Both Cabinets have agreed with those of Paris and London in the conviction that the conflict between Russia and Turkey could not be prolonged without affecting the general interests of Europe, and those also of their own States. They acknowledged in common that the maintenance of the integrity of the Ottoman empire and the independence of the Sultan's Government are necessary conditions of the political balance, and that the war should, under no circumstances, have for result any change in existing territorial positions."

Now, my Lords, I apprehend it to be clear that, according to the true interpretation of this passage, when it is stated that "the war should, under no circumstances, have for result any change in existing territorial positions," it must mean territorial positions as between Turkey on the one side, and Russia on the other. This may not, perhaps, be expressed with so much precision as to be perfectly free from doubt; but any such doubt will be effectually removed by referring to the protocol of the 5th of December to which the paper relates. In that instrument the Four Powers express themselves thus—

"In fact, the existence of Turkey in the limits assigned to her by treaty is one of the necessary conditions of the balance of power in Europe, and the undersigned Plenipotentiaries record, with satisfaction, that the existing war cannot in any case lead to modifications in the territorial boundaries of the two empires, which would be calculated to alter the state of possession in the East established for a length of time, and which is equally necessary for the tranquillity of all the other Powers."

It would appear, therefore, that, according to the agreement between the Four Powers, as stated in these documents, no alteration is to take place, whatever may be the result of the war, in the territorial limits between Turkey on the one side and Russia on the other. In other words, that their principle is this—that in every event the *status quo ante bellum*, so far as re-

lates to territorial position between the two Powers, is to remain unchanged.

But, my Lords, it may be said, and properly said, that the protocol upon which this passage is founded, was signed before the Western Powers had engaged in the war. Undoubtedly that is so; but after that event, and in this new state of things, the representatives of the Four Powers again met for the purpose of confirming what they had previously done; and, upon that occasion, they stated, in distinct terms, that they adhered to the principles upon which the former protocols had been founded. It seems, therefore, extremely difficult to come to any other conclusion than that which I have before stated, namely, that, whatever may be the result of the war, it must terminate by leaving Russia and Turkey precisely in the same state, as to territorial limits, in which they stood previous to the commencement of hostilities; and this is further confirmed by a passage, which I am about to read, in the memorandum sent to the Diet—

"The last of the protocols shows that, although France and Great Britain have entered into the war against Russia, the four Cabinets invariably adhere to the principle proclaimed heretofore by them in common, and have united in regard to the basis on which to deliberate as respects the appropriate means for obtaining the object of their endeavours."

The result, therefore, seems to be that in every event the principle of maintaining the *status quo* is to be adhered to. That this is the principle upon which Austria and Prussia are acting, is sufficiently obvious; for if Russia were now to withdraw from the Principalities, and at the same time consent to a guarantee with respect to the independence of the Sultan and the integrity of the Ottoman empire, neither Austria nor Prussia would, as it is affirmed, take any active part in the contest. And if that be so with respect to these two Powers, and who state they are acting in concert and on one common principle with England and France, it seems to follow, and I must so conclude unless I hear something satisfactory to the contrary from my noble Friend opposite, that, whatever be the course and events of the war, the *status quo* as to the limits of the two empires of Russia and Turkey is to be maintained. And it is in order to obtain some explanation, and to come to a clear understanding on this material question, that I have thought it my duty to submit it to your attention.

Lord Lyndhurst

But, my Lords, it is not a little singular that Austria herself appears to show a disposition to act in one instance at least inconsistently with this principle; and I feel it difficult to reconcile the part of the paper to which I am about to allude with that to which I have already referred. I beg your Lordships' attention as to what is said as to the Danube. The free navigation of that river is stated by Austria to be of the utmost importance, not to her territory and her subjects alone, but to the whole of Central Germany. This is enlarged upon in the strongest terms, but not in terms by any means stronger than the importance of the subject warrants. The paper runs thus—

"It seems to be a requirement of the political position of Germany, an element of her conservative policy, a condition of her national development for her national wealth, that in the countries of the Lower Danube there should exist a well-regulated state of affairs suitable to the interests of Central Europe."

And again—

"The material interests of Germany are susceptible of most powerful elevation through the great water channels to the East; and it is thence generally incumbent on Germany to secure as much as possible the freedom of Danubian commerce, and not to witness the material animation of water communications with the East repulsed by restrictions."

Let me, then, request your attention for a moment to the actual state of that river, and to the circumstances under which it is and has been long placed. This review will lead to the conclusion that Austria cannot herself be satisfied with the *status quo* as to this important territorial position. We all know that by the Treaty of Adrianople—that unfortunate treaty I must call it of Adrianople—Russia secured to herself both banks of the Danube; the one she held in absolute right, the other was placed substantially under her exclusive control. She also obtained the right of establishing a quarantine on one of the islands in the Danube.

Thus possessed of the sole and absolute control of that river, from its mouth to a considerable distance upwards, she has so managed as to impede in the most effectual manner the free course of its navigation; and further, by engrafting strict police regulations on the quarantine establishment, to interfere with the freedom of personal communication in that district. Remonstrance after remonstrance has been addressed to her by Austria, by England, and other European Powers without effect;

and it is obvious, judging from the past, that unless Russia is removed from her present position, and her limits at this point undergo a material change, it will be impossible to ensure for the future the free and unimpeded navigation of the Danube.

It is supposed, and seems to be thrown out incidentally, but vaguely and obscurely, in this paper, that this object may be secured by some treaty or convention. My Lords, I have no faith in a treaty upon this subject entered into with Russia. There was a treaty relating to it for several years between Austria and that Power, but which, I believe, has now expired. Russia undertook to keep the course of the Danube free from impediment, and Austria, in consideration of this, engaged to pay a toll upon her ships passing down the river. But what has been the conduct of Russia? She has enforced the payment of the toll, but has not only done nothing to keep the course of the Danube free from impediments, but has connived at, if not encouraged, every obstruction to its course, apparently with the view of favouring her rival port of Odessa.

At the time when the Turks were in possession of the river, they, by a very simple process, managed to keep the navigation clear; and when it passed from their possession, the depth of the water at the mouth of the river was upwards of sixteen feet—it is now reduced to about nine. By requiring that a kind of iron harrow or drag should be attached to each vessel going down the stream, thus loosening the mud for the action of the river, they kept the navigation free. Applications have been repeatedly made to Count Nesselrode and to other authorities to adopt the same mode of proceeding, but they have always refused or evaded under different pretexts to resort to these simple means. It was pretended that an apparatus of a more effectual kind was preparing for the purpose of accomplishing the object. After a long delay the intended instrument arrived at Odessa; after a still further delay it was set to work, and it turned out, as had been foretold, not only to be ineffectual, but to increase the evil it was intended to remedy. It soon got out of order and was abandoned.

If any noble Lord should wish for further details on this subject, I exhort him most earnestly to read the papers that were laid last year on the table of your Lordships' House with respect to the

Sulina mouth of the Danube. They will be found to afford a lively picture of the shuffling, evasive, and, if I might apply such terms to persons in high and exalted stations, I would say tricking and mendacious, diplomacy of the Court of St. Petersburg. Is it not, then, evident from these facts that it has become absolutely necessary that a change should take place in the state of territorial possession at the mouth of the Danube—that such an alteration is required for securing that most important, and I may add necessary, object on which so much reliance is justly placed by Austria and Germany—namely, the free and uninterrupted navigation of this great river? Those Powers must be convinced that this object can only be obtained and effectually secured by a departure from the principle of the *status quo* in this district.

Leaving, then, the western side of the Black Sea, I beg your Lordships to pass with me to its eastern shore. We have shut up the Russian fleet in the harbour of Sebastopol. It has the mortification of feeling that it cannot encounter the combined force without the certainty of entire destruction. All the Russian establishments on the Circassian coast, from Anapa to its southern extremity, have in consequence been deserted or destroyed. The chain of forts which during the last fifty years the Government had been employed in constructing at a vast expense, as a defence against the incursions of the brave mountaineers of that district, and with a view to their ultimate subjugation as well as for the further purpose of recruiting their armies and transmitting military stores to her south Caucasian possessions, have been levelled with the ground. Can it be possible, then, that, unless forced by the most disastrous events, we should consent to place Russia again in possession of this coast? We have supplied the brave population with arms, we have encouraged them to take an active part in the war against the common enemy. To abandon them to his vengeance would be not only an act of the grossest cruelty and injustice to this simple and heroic race, but, as your Lordships must feel with me, an act of deep disgrace and infamy.

I will now, my Lords, pass from these particulars to the more general question. From the earliest period, from the time of the Empress Catherine down to the present day, Russia has considered Turkey as her destined prey. Every war between these

Powers has ended in the steady advance of Russia towards the accomplishment of her purpose, and we now know, from what has lately come to light, that she considers the victim to be almost within her grasp, and it is evident she will persevere with the constancy habitual to her in endeavours to seize and secure it. But, my Lords, if the situation of Russia is to undergo no change at the termination of the present contest, what will be her actual position with respect to Turkey? I do not wish upon this point that you should rely upon any opinion or statement of mine; but will refer to an authority above all exception, that of Count Nesselrode himself?

Some time after the conclusion of the Treaty of Adrianople, Count Nesselrode wrote to the Grand Duke Constantine, at Warsaw, to give an account of the particulars of that treaty, and of the relative situation of Russia and Turkey in consequence of it. A reference to that despatch will place before you in a striking manner the future position of Turkey if the *status quo* should be adopted. He expresses himself in these terms—

“The Turkish monarchy is reduced to such a state as to exist only under the protection of Russia, and must comply in future with her wishes.”

Then, adverting to the Principalities, he says—

“The possession of these Principalities is of the less importance to us, as, without maintaining troops there, which would be attended with considerable expense, we shall dispose of them at our pleasure, as well during peace as in time of war. We shall hold the keys of a position from which it will be easy to keep the Turkish Government in check, and the Sultan will feel that any attempt to brave us again must end in his certain ruin.”

If this description be correct, and who can question its accuracy, Turkey will thus be left at the mercy of Russia, whenever the state of Europe shall be such as to enable that Power to avail herself of the advantage of her position, either for further encroachment or for the attainment of the ultimate object of her ambition—the entire subjugation of the European dominions of the Sultan. In what manner Russia is likely to act under such circumstances, I might, perhaps, safely leave your Lordships to conclude, and certainly will not trouble you with any observations of my own respecting it, but refer you, as I have before done, to approved Russian authority—to that of Prince Lieven, for many years the representative of Russia at this Court. In answer to a letter from

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Count Nesselrode, who had consulted him by command of the Emperor upon his projected attack upon Turkey, he expresses himself thus—

“Our policy must be to maintain a reserved and prudent attitude until the moment arrives for Russia to vindicate her rights, and for the rapid action which she will be obliged to adopt. The war ought to take Europe by surprise. Our movements must be prompt, so that the other Powers should find it impossible to be prepared for the blow that we are about to strike.”

But Prince Lieven was one only of the persons consulted upon this occasion. The Emperor was desirous of knowing what opposition he was likely to meet with from the other Powers individually, and what chance there was of a combination against him should he persevere in the execution of his design. The most detailed, and at the same time the most able, of the secret despatches, transmitted to St. Petersburg upon the occasion, was from Count Pozzo di Borgo, an adopted Russian, not an over-scrupulous, but a very keen and subtle diplomatist. He was intimately acquainted with this country and its policy, and was at that time the representative of Russia at Paris.

This paper cannot be read at the present time without a feeling of curiosity and deep interest. He adverts to the different Powers in succession, beginning with this country.

“England,” he says, “has recovered from her commercial and financial crisis, and is in a condition to oppose us, and possibly may take that course. She may in that event do us considerable injury, but not of such a nature as to be wholly irremediable. She cannot, however, alone obstruct our designs or oppose the march of our armies.”

His conclusion, therefore, is, that the single opposition of this country could not stand in the way of the accomplishment of the Emperor's designs.

He then comes to France, and, after some curious and amusing comments upon M. de Villele, the Minister of that country, considers what would be the probable effect of the union of France and England in opposition to the projected enterprise. Whatever, he says, can be done by a superior naval force can be effected by England alone; the addition, therefore, of the maritime means of France will not be material; and as to her military power, she will be prevented from using it with any effect against us by reason of her geographical, moral, and political position. “Where,” he observes, “is she to find a

field of battle to oppose us; and,” he adds, with an expression of triumph, “her armies well know what they have to expect if they come in collision with ours.” What is to be the result of that collision at the present day must soon appear, and may, and I trust will, disappoint the confident anticipations of the Russian diplomatist.

Having thus disposed of England and France, he proceeds next to consider whether anything is to be apprehended from Austria. Prince Metternich, that experienced, sagacious, and clear-sighted statesman, had endeavoured, but without success, to awaken attention to the designs of Russia, and to form some sort of union against her. The attempt had excited the strongest feeling of resentment and indignation against that eminent person. Accordingly his policy was derided, his schemes ridiculed, and the power of Austria treated with contempt. One short sentence disposed of the whole:—“To every country,” said the Russian diplomatist, “war is a calamity, to Austria it would be certain ruin.” Thus far then, according to this statement, there appeared to be no serious impediment to the aggressive designs of Russia.

I hear it whispered near me—You have forgotten Prussia. Far from it! I have reserved her as a pattern of constancy in political connection, and which would be most praiseworthy in connections of a different description. My noble Friend opposite must possess some powerful attractive force to have torn asunder, or dissolved the strong cohesion between these two Powers, Russia and Prussia. Read what Pozzo di Borgo says of Prussia. With what an affectionate sneer he treats that Government. It can scarcely be considered as irony, it is so broad and undisguised—

“Prussia being less jealous, and consequently more impartial, has constantly shown by her opinions that she has a just idea of the nature and importance of the affairs of the East, and if the Court of Vienna had shared her views and her good intentions, there can be no doubt that the plan of the Imperial Cabinet would have been accomplished.”

Fortunate it is for Europe and the world that she has not shared her views upon the present occasion, but, on the contrary, has persuaded Prussia to adopt a more wise and generous policy.

At a subsequent period Count Nesselrode, in the despatch to which I have already referred, speaking of what I may

call Prussia's subserviency to the Emperor, expresses himself in these terms—

"The Count Alopeus transmits to us the most positive assurances, which leave no doubt touching the favourable dispositions on which Russia may reckon on the part of Prussia, whatever may be the ultimate course of events."

These passages present a striking picture of the cautious policy, and at the same time of the industry, unwearied activity, and energy, of the Russian Government. Acting upon these opinions, the invasion of the Principalities, after a short but necessary interval, was decided upon, and the armies of Russia, without opposition from any European Power, passed the Balkan, and dictated the degrading and disastrous terms of the Treaty of Adrianople.

Place Russia there upon the termination of the present war in the position she then held, and which is so forcibly described by Count Nesselrode in his secret despatch to the Grand Duke, and what can you reasonably expect when a convenient opportunity occurs, but further encroachments on the Sultan, and ultimately, the entire subjugation of the European portion of his empire?

But then this paper refers to some projected guarantee—some treaty, to which the Four Powers and Russia are to be parties, for the maintenance of the independence of the Sultan and the integrity of the Ottoman empire. Now, my Lords, I fully admit, as to the Four Powers, that as long as they continue united in friendship and policy, such a guarantee might afford effectual security against the ambitious designs of Russia; but, if circumstances should occur to disturb this union, and, in the ever-varying events of the world, to create rival or hostile feelings between them, there would at once be an end of this security. And as to the guarantee of Russia, or the obligation of any treaty into which she might enter, who is to be found so weak, so credulous, as to place the least reliance upon it? It would be utterly valueless; not worth the paper upon which it was written.

As to trusting in this Power, whether we look to recent or more remote events, we come to the same conclusion. Sir Hamilton Seymour, our able and observant Minister at St. Petersburg, had learnt, from various authentic sources, that large bodies of Russian troops were moving towards the Turkish frontiers. In communicating upon this matter with Count Nes-

selrode, he was told by that Minister that he must have been misinformed; that these movements were nothing more than a change of quarters, usual at that season of the year. In commenting upon this statement, Sir Hamilton Seymour observes, in his despatch to my noble Friend, that he found it impossible to reconcile the facts which had come to his knowledge with the assurances of the Russian Minister. The result abundantly proved the correctness of the information.

In the course of an interesting conversation that occurred in this House some weeks since, a noble Friend of mine on the cross-bench enlarged, with much eloquence, and in a strain of high feeling, upon the unworthiness of entertaining doubts of the integrity and honour of illustrious persons with whom we were negotiating in matters of public and national interest. I listened with pleasure to the charms of his brilliant declamation, which reminded me forcibly of former days, but remained unconvinced by his reasoning.

In the intercourse of private life, liberal confidence in those with whom we converse and associate is the characteristic of a gentleman; but in the affairs of nations, where the interests and welfare of millions are at stake, where the rise or fall of empires may depend upon the issue, those who are interested with the conduct of such negotiations must be guided by a different and a stricter rule. Their duty in such a position is to exercise caution, vigilance, jealousy. "Oh, for the good old parliamentary word 'jealousy,'" exclaimed Mr. Fox, in one of those bursts of feeling so usual with him, "instead of its modern substitute, 'confidence.'" And if such be the true policy, which I think it is as between Parliament and the Ministers of the Crown, how much more ought it to prevail in the conflicting affairs of nations, where such mighty interests are concerned. If confidence, with its natural tendency, should sink into credulity, to what disastrous results might it not lead?

But, in the case of Russia in particular, and in negotiations with that Government, nothing but the extreme of blindness and credulity could lead to a departure from these principles. The whole series of her history, from the earliest period to the present day, has been one long-continued course of fraud and perfidy, of stealthy encroachment, or open and unblushing violence—a course characteristic of a barbarous race, and, whether at St. Petersburg

or Tobolsk, marking its Asiatic origin. To go back to the reign of the Empress Catherine, we find her policy in one striking particular corresponding with that of the present Emperor, and which policy may in truth be traced back to the Czar Peter. She ostentatiously proclaimed herself the Protector of the Greek Church in Poland, fomented religious dissensions among that people, and, under pretence of putting an end to disorders which she had herself created, sent a large military force into the country, and gradually stripped it of some of its fairest possessions. I need not add a word as to the ultimate and disastrous issue of these intrigues—the impression they created is strong, and will be lasting.

With a like policy in the Crimea, the independence of which country had been settled by treaty, she set up a prince whom she afterwards deposed, and amidst the confusion thus created, entered the country with an army under the command of one of the most brutal and sanguinary of her commanders, and having slaughtered all who opposed her, annexed this important district permanently to the Russian empire. While these proceedings were going on, she prevented by means of her fleet all communication with Constantinople, being at peace with the Sultan, with whom she was at that time negotiating a treaty of commerce.

I pass over the extensive conspiracy in which Russia was engaged with Persia and other Powers in the East in the years 1834 and 1835 against this country, while she professed to be on terms of the closest friendship with us. These scandalous transactions were strenuously denied by Count Nesselrode to our Minister, at St. Petersburg, but were afterwards conclusively established by Sir Alexander Burnes and by our Consul at Candahar. To enter into details upon this complicated subject would lead me too far from my present object.

But I cannot forbear adverting to the designs of Russia upon Khiva, an inconsiderable place in the desert, east of the Caspian. I recollect the expressions of Mr. Pitt, in alluding to Buonaparte, who, after taking possession of Malta, seized a barren rock in the Mediterranean on his passage to Egypt: "Nothing," he exclaimed, "is too vast for the temerity of his ambition, nothing too small for the grasp of his rapacity"—expressions no less applicable to the restless and insatiable ambi-

tion of Russia. Russia sacrificed two armies in endeavouring to reach this remote place. For what purpose? Not with a view to any beneficial trade, but evidently as a convenient centre from which to form combinations and carry on intrigues for the disturbance of our Eastern empire. She has at length, by sending an expedition in a different direction, succeeded in obtaining a footing in that district, the preparations for the enterprise having been made while she was in apparent friendship with our Government.

As to Turkey, it is now known from recent disclosures that, while the Emperor Nicholas was amusing the Sultan with smooth words, and expressing the strongest desire to maintain her independence, he was secretly plotting her destruction and the partition of her empire.

Again, my Lords, assurances were given that Prince Menchikoff's mission related solely to the settlement of the question of the Holy Places; but while thus engaged, he endeavoured by menaces to force the Turkish Government into a secret convention, the effect of which would have been to make the Emperor joint Sovereign with the Sultan. It was afterwards admitted by Count Nesselrode, in contradiction to what he had before stated, that the Emperor regarded this as the most important object of the mission.

After this review of the deceptive policy of Russia, and these instances of her total disregard of national faith, instances which might have been carried to a much greater extent, I ask with confidence what reliance can be placed upon any engagement or guarantee into which she may enter, should it at any moment become her interest, or should she consider it her interest, to disregard it.

But Russia, carrying diplomacy to the extreme point of refinement, has introduced a new and significant term into that mysterious science, namely, the term "material guarantee." If the Emperor will give a guarantee of this description, something solid and substantial, as a pledge of his fidelity—something that he would be unwilling to forfeit—such a guarantee might enable us to hope for a secure and lasting peace; but to rely upon a mere paper guarantee—a mere pledge of his Imperial word—would, your Lordships must feel, be the extreme of folly and weakness.

I may possibly be asked, What are your views, what do you look forward to as the

results of this great struggle? My answer is, that I cannot, in my position, presume to offer an opinion upon such a subject. It is obvious that these results must depend upon the events, the contingencies of the war. But I may venture to say negatively that, unless compelled by the most unforeseen and disastrous circumstances, we ought not to make peace until we have destroyed the Russian fleet in the Black Sea, and razed the fortifications by which it is protected. As long as Russia possesses that fleet, and retains that position, it will be idle to talk of the independence of the Sultan—Russia will continue to hold Turkey in subjection, and compel her to yield obedience to her will.

What course Austria will finally pursue, however I may hope, I will not venture to predict. She has far more at stake in this conflict than either England or France. Should Russia succeed in retaining the Principalities, and in increasing her influence on the southern frontier of Austria, the independence of that empire will be at an end. If this overgrown and monstrous Power, extending over so many thousand miles from west to east, pressing as it does on the northern boundary of Austria, should coil itself round her eastern and southern limits, she must yield to its movements or be crushed in its folds.

What Russia may further attempt, if successful in her present efforts, time alone can disclose. That she will not remain stationary we may confidently predict. Ambition, like other passions, grows by what it feeds upon. Prince Lieven, in the despatch to Count Nesselrode, to which I before alluded, says—

“Europe contemplates with awe this colossus, whose gigantic armies wait only the signal to pour like a torrent upon her kingdoms and states.”

If this semi-barbarous people, with a Government of the same character, disguised under the thin cover of a showy but spurious refinement—a Government opposed to all beneficial progress and improvement, and which prohibits by law the education of the great body of its subjects—a despotism the most coarse and degrading that ever afflicted mankind—if this Power with such attributes should establish itself in the heart of Europe (which may Heaven in its mercy avert!) it would be the heaviest and most fatal calamity that could fall on the civilised world.

THE EARL OF CLARENDON: My Lords, before replying to the observations of my

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noble and learned Friend, I hope he will permit me, with all due deference, to remark upon the somewhat irregular, and therefore inconvenient, course which he has taken upon the present occasion. My noble and learned Friend has made a long, able, and most interesting speech, with the view of directing your Lordships' attention to a document which is not before you, of which you can have no cognisance, and which has not been communicated to Her Majesty's Government, for this reason—namely, that Powers do not make known to foreign Governments communications which pass between themselves and their agents relative to their own affairs. Your Lordships may or may not, as my noble and learned Friend supposes, have seen this document, when it was published some months ago; but I contend that you are not in a position to form an opinion, still less to pass a judgment on a paper, the contents of which many of your Lordships have probably heard to-night for the first time. If proceedings of this kind are continued with the sanction and authority of your Lordships—if this Motion should be drawn into a precedent for making the communications between foreign Governments the subject of discussion in this House, I fear we should be exposed to the inconvenience of arriving at decisions upon insufficient and perhaps erroneous data; and expose ourselves to remonstrances from foreign Governments on account of the conclusions at which we may arrive. The document to which my noble and learned Friend has referred, contains merely a recapitulation of transactions in which the Four Powers—England, France, Austria, and Prussia—were concerned, and it sets out, as my noble Friend observed, that the Four Powers were unanimously agreed upon the maintenance of the integrity of Turkey and the independence of the Sultan as essential to the equilibrium of Europe. This document was transmitted by Austria and Prussia to the members of the Germanic Confederation, who had felt aggrieved at having been excluded from the negotiations relative to these transactions, which materially concerned the interests of Europe. This was a matter with which Her Majesty's Government had nothing to do, and no doubt the Cabinets of Berlin and Vienna had sufficient reasons for not deviating on this occasion from the mode of proceeding with regard to the other German States

usually observed in similar cases. These Powers, foreseeing that the aggressive policy of Russia might render neutrality no longer possible, concluded with each other an offensive and defensive treaty; and then arose the necessity of communicating it to the Germanic Confederation, not only for the purpose of securing the union of Germany against a common enemy and a common danger, but also for securing the support of the large armed force which the Confederation in certain circumstances, but solely with reference to German interests, is bound to supply. Under these circumstances, it was not only natural, but indispensable, that in applying to the Germanic Confederation the Declaration made by Austria and Prussia should have reference to German interests alone; and, therefore, it was that the Cabinets of Berlin and Vienna informed the Confederation that the continued military occupation of the Lower Danube by Russia was inconsistent with the material, and even with the political, interests of Germany. It was, therefore, of the utmost importance, that the *status quo* on the Lower Danube should be realised as originally fixed in the interests of Central Europe. I agree with the noble Lord in the opinion that the phraseology leaves an ambiguous impression; although I had no doubt whatever as to the real meaning, and upon inquiry I found that my opinion was correct, and that the words had reference more to the state of things which had been complained of in the previous paragraph of the Declaration, namely, that armed occupation of the Danube which was destructive to the interests of Germany and Austria. It was certainly not to replace Russia in the power which it had to occupy the mouths of the Danube. That power and possession had always been used to obstruct the freedom of commerce, and to throw every obstacle in the way of the free navigation of the river. But the Declaration goes on further to say, there is a vast field open for our commerce and industry to the East, and that great field must not be possessed by Russia. But this great field has always been obstructed by Russia, and that freedom of navigation prevented which Austria considered necessary. And the note goes on to say, so far as respects Russia, that now is the time to secure that liberty, and to remove those obstacles; and so it goes on to the next sentence, to which the noble Lord has refer-

red, with respect to the territorial *status quo*. The noble Lord will remember that it simply enjoins on the Confederation, that it is its bounden duty to take care that the result of the war shall not be such a territorial change of any of the great States of Europe as shall injuriously affect German interests. That is not an unnatural recommendation from the two great German Powers to the twenty-five minor Powers, at the same time that they are inviting their aid and co-operation, and calling upon them confidently and bravely to prepare for the trials which may be in store for them. I do not think it weakens any engagements which may have been taken between Austria and Prussia with England and France—on the contrary, it rather adds strength to them, as it calls upon the Confederation to unite as one man and prepare for the eventualities of war. Nor does it in any way alter the character of the assurances we have received from Austria. After the Philippic delivered by my noble and learned Friend against “confidence,” and the preference which he has shown for “jealousy,” I am almost afraid to venture on a declaration of my confidence in Austria. But I think I am justified in saying that we should look at Austria as an independent Power, carrying out her own policy, having some internal dangers to apprehend and many German difficulties to contend with, and that, under these circumstances, full allowance is not made for her difficult position. But, my Lords, as the alliance of Austria is of great importance to us—and, as far as the inland operations of the army of Austria are concerned, I consider them to be essential to us—I think it may not be out of place if I advert to some past proceedings, and state to your Lordships the facts upon which I found my confidence in the assurances which Austria has made to us. Such a course will, I think, be more practically useful than that of following my noble and learned Friend in his history of Russian aggressions, the character of which I need not say is such as I must necessarily condemn, but which, in my position, and speaking under a greater degree of responsibility than my noble and learned Friend, I think it better that I should abstain from commenting upon, and confine myself to matters which may be more practically useful and more interesting to your Lordships. I will, therefore, proceed to state what are the grounds upon which I feel confidence in the assurances

of Austria. My Lords, about three months ago I ventured to state in this House my belief that Austria could not remain neutral in this great contest, and that for the very reason stated by the noble and learned Lord—namely, that her interests, more than any other Power, were concerned in the issue of the war, and that the danger which menaced her was greater than that which menaced France or England or any other Power. Nay, I will now go further, and say, that if the German Powers—Austria more especially—had stood alone, they would have been compelled by every consideration of policy and self-interest to protect Turkey against the aggressions of Russia. Because, if Russia remained in possession of the Principalities, and, in spite of resistance on the part of Turkey, advanced to Constantinople itself, if her fleet retained the entire command of the Black Sea, and she closed the mouths of the Danube, the commercial prosperity of Austria and the German Powers, would be totally destroyed, and they would become, not the allies, but the mere vassals of Russia. True it is that there are some German Powers who still look with awe at the imaginary omnipotence of Russia, and who seem to wish to derive a guarantee from her for their future existence. But Austria has not shared in this ignominious feeling—the independence and dignity of the empire would have repelled such ideas. But even had she done so, neutrality would not have been her line. She must have been compelled to take part with Russia, not, I repeat, as an independent ally, but as a vassal to do the bidding of the Emperor. But Austria, and Prussia too, repelled the demand that was made on them by Russia to engage in a convention of neutrality, and from that moment a separation took place between Austria and Russia, which is a matter of no small importance to the world, because it has always been supposed that Russia, having a claim on the gratitude of Austria, would possess that influence over Austria which my noble and learned Friend described. But Austria did not yield to any such influence. She had gone with us. She had declared that she agrees with us, and she supported our summons to Russia to evacuate the Principalities. Therefore, I think that there was no reason to apprehend that Austria would remain neutral in this contest. But I know that it has been said that Austria has not moved with that vigour and rapidity which was called for

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by her own engagements and by the possible necessity of the case. But I would only call upon your Lordships to place yourselves in the position of Austria, and to remember that up to the close of the year 1853 she did not believe in the possibility of a war. She trusted to the assurances and to the friendly feelings of Russia. She believed that her wishes and her interests would not be disregarded by Russia, and that the Emperor of Russia would not turn a deaf ear to her entreaties. She did not think that the Emperor of Russia would abandon his conservative character, and be himself the disturber of the peace of Europe. We must remember, also, the personal feelings which entered into these considerations—that the Emperor of Austria had a strong personal regard and respect for the Emperor of Russia, and that he had to weigh, with reference to the future, the consequences to himself and his people between the conclusion of a treaty of alliance with Russia on the one hand, and a treaty of alliance with the Western Powers on the other. We should also bear in mind that to quit the long-established alliance with Russia for one with the Western Powers was, on the part of Austria, nothing less than a complete revolution—a change of policy so great as was not to be effected without some difficulty. But, as I said before, Austria readily concurred in all the changes and in all the onward movements which had been made, and when the Emperor came to deal with the inadmissible propositions of Russia, sent by Count Orloff, and was not able to discover in them any assurance that the object of the Emperor of Russia was peace, he gave orders that an army of 30,000 men should be concentrated between Transylvania and the borders of Wallachia, and he formed a treaty with the Porte that he should send troops into Servia if the Russians entered into the principality. On that, indeed, the Emperor of Austria was disposed to act more vigorously; and he would have concluded a convention between the Four Powers, but obstacles which were insurmountable prevented him from doing so. He, however, did agree to the protocol of the 9th of April, which embodied all the terms that had been agreed upon by the other Powers. About the same time Austria and Prussia agreed to a treaty of alliance offensive and defensive, which had reference solely to German interests, affecting, therefore, the other States of Ger-

many, whose support and assistance it was intended to invite. But there was an additional article which accompanied that treaty, and which was of a more extended view. By that additional article the two Powers bound themselves to demand that no onward movement should be made by Russia in sending forces into the Turkish territory.

LORD LYNTHURST asked, whether that additional article had been laid before Parliament?

THE EARL OF CLARENDON: I am not aware. I believe it has not, and that the reason is that it was not communicated to the Conference. The treaty alone had been communicated to the several Governments, but it was not thought right by Austria and Prussia that that which had been withheld from the Conference should be communicated to the Governments. The reason the additional article was withheld was, that it had reference to matters beyond what immediately concerned Germany; but at the same time a copy of the additional article was communicated to Her Majesty's Government. This additional article of which I speak gave a more extended view of the parties, and it provided that the two Powers, Austria and Prussia, should require Russia to suspend all warlike operations within the Turkish territory; that a definite answer should be demanded on these two points; and that, if such an answer was not returned as should give complete security and satisfaction to the two Powers, then Prussia pledged herself that she would have her army in readiness to co-operate with Austria, and, if the Principalities were incorporated by the Russians, or the Balkans passed or attacked by the Russians, then Austria and Prussia together were to take the offensive. At the beginning of this month a summons by the Austrian Government, announcing that determination, was sent to St. Petersburg. In anticipation of the answer being unfavourable, the Austrian Government, after communicating with Her Majesty's Government and with the Emperor of the French, proposed a convention with the Porte, by which Austrian troops were to be permitted to enter the Principalities, in order to occupy them as long as was necessary, Austria having stated to the English and French Governments that she was determined, however much her assistance might be required, not to permit an Austrian soldier to enter the Turkish territory without having pre-

viously obtained the consent of the Sultan. At the same time Austria placed at the disposal of the Porte any number of troops that might be required for reducing the insurrection in Montenegro, but not to be called into service unless actually required or considered necessary by the Turkish commander on the spot, and to be demanded by him. She also offered that her ships should co-operate with ours in order to suppress the Greek insurrection. And, my Lords, I am informed that at the close of this month, or at the beginning of the next, the Austrian army, organised and fully equipped for active service, will amount to 300,000 men. Now, my Lords, under these circumstances, I think we may feel some confidence in the assurances of Austria, that her object and views are the same as our own, and that in the prosecution of this object we shall always find her with us. Nor can I believe that after the knowledge which Austria has acquired of Russian diplomacy, and after the experience she has had of Russian friendship—after the experience she has had of her utter disregard of Austrian interests—that after the vast expense she has incurred, and the great risks to which she might be exposed—I say, I cannot believe, as the noble and learned Lord would seem almost to infer, that she will be so wanting to her interest and to her dignity as to conclude such a peace as that to which the noble and learned Lord has adverted, which could be nothing but a short hollow truce, and to which England and France could not be parties—a peace which could afford Austria no guarantee for the future, which would be indeed a triumph to Russia, which would leave Austria entirely at the mercy of Russia, and leave Europe for ever afterwards subject to the pernicious influence and oppressive policy of that Power. My noble and learned Friend has asked what were the terms which would be proposed for effecting a peace with Russia. My Lords, I cannot possibly say, nor do I think any one of your Lordships would undertake to say, upon what terms peace can be made. That must depend upon the chances and the contingencies of war. And indeed, my Lords, if I did know upon what terms we alone would be prepared to make peace—if I was prepared to say that we would accept no other terms than those which the noble and learned Lord himself would accede to—I am sure your Lordships would agree with me that it would be the most imprudent course I could possibly

take to divulge them. We may all have our opinions as to what may be desirable in that respect, but none of us can tell what may be possible. But this we know, that the policy of Russia and the power she has hitherto possessed of carrying it out have been and are dangerous to the peace and well-being of Europe, and that both are adverse to the cause of progress and of civilisation. And we also know that the object and interest of Europe must be to curtail that power and to check that policy. We know that the means of doing it are now so great and effectual, and that the opportunity is so wonderfully favourable, that if we were now to neglect it we should in vain hope for its return. All Europe is not to be disturbed, great interests are not to be dislocated, the people are not to have fresh burdens imposed upon them, great social and commercial relations are not to be abruptly torn asunder, and the greatest Powers of Europe are not to be united in arms, for an insignificant result. I think you must agree that repression will only postpone the danger, and that safety can alone be found in curtailing the Power which menaces the peace of Europe and the cause of progress and civilisation.

THE EARL OF DERBY: My Lords, I believe your Lordships must all have admired, as I have done, the able and eloquent statement made by my noble and learned Friend behind me, who entered into this important question with all his wonted vigour and perspicuity; and I do believe that, whatever irregularity there may have been in the course taken by my noble and learned Friend, an ample justification of that course may be found in the concluding observations of the noble Earl who has just addressed you. I think your Lordships will be of opinion that the terms of the document which has been cited and commented upon by my noble and learned Friend were of a character to cause the most serious apprehensions, that, with regard to two of the great Powers of Europe, that which my noble Friend opposite (the Earl of Clarendon) deprecated as an insignificant result, would be the conclusion at which those Powers would arrive. And I confess that, difficult as it is to argue on the precise terms of a document, which is not merely not technically before us, but which we have not practically before our eyes at the present moment, I think the noble Earl was less fortunate than usual in the attempt he made to explain that which, after his explanation, appeared to me not

*The Earl of Clarendon*

only an ambiguous expression, but an expression on which it was very difficult to place any other interpretation than that natural interpretation placed upon it by my noble and learned Friend. My noble Friend opposite spoke as if the terms in question were the terms of an agreement between Austria and Prussia, and confirmed and assented to by England and France, for guaranteeing the independence of Turkey. If such were the object of that agreement, my noble and learned Friend could have found no reason to complain, and could see in it no grounds for doubting the intentions of the different Powers; but the case put forward by my noble and learned Friend is, that in a document purporting to be a *resumé* of the Conference between the different Powers, and submitted by Austria and Prussia to the Diet, these two Powers declare that whatever may be the result of the war—subject to the exception, and certainly, as it seems to me, the inconsistent exception, of the rights to be exercised on the banks of the Danube—those two Powers not only declare that the integrity of Turkey shall be maintained, but that the territorial arrangements between Turkey and Russia shall also be maintained; thereby leading to the natural inference that, if that object could be secured, if the Principalities should for the moment be evacuated, and if the integrity of Turkey should be recognised by Russia, there would be an end of all their efforts against the latter empire; and that, not only would there be an end of those efforts, but that, if France and England were to seek to go further in the prosecution of the war, Austria and Prussia, under the terms of that agreement, would have a right to step in and say, "No; we declare that, whatever might be the result of the war, existing territorial arrangements should be preserved inviolate, and if you proceed to enforce any measures beyond the evacuation of the Principalities, and the restoration of rights on the Danube, you cannot count on our alliance, you cannot count on our assistance, nay, more, we are bound by implication to oppose any proceeding by which existing territorial arrangements would be disturbed." Now, I must say that my noble Friend opposite (the Earl of Clarendon) passed lightly over this, which was the pinching part of the statement of my noble and learned Friend, and the more pinching because it not only throws doubts on the intentions of Austria and Prussia, but because a subsequent protocol, signed by all the Four Powers, recog-

nises, as accepted by them, two engagements—one between England and France, and another between Austria and Prussia, which would appear to put limits to the operations of all the Powers in the event of Russia acceding to the terms in question. According to those terms, if Russia should evacuate the Principalities, recognise the integrity and independence of Turkey, give no material guarantees for that purpose, but sign a treaty containing that recognition—according to those terms, as interpreted by my noble and learned Friend, and as I think they would be interpreted by any rational man, Austria and Prussia would stand aloof, under the most favourable view of the case, and might even be expected to take part in defending Russia against the dismemberment of any portion of her territories, however dangerous her retention of it might be to the future tranquillity of Europe. My noble Friend opposite (the Earl of Clarendon) insisted on the sincerity of Austria. But no question was raised by my noble and learned Friend upon that subject. The question was, as to the meaning of the professions made by Austria. That Power was, no doubt, sincere in declaring that it was necessary that the Principalities should be evacuated, and that she would have recourse to hostile measures if any attempt were made by the Russians to pass the Balkan. The question, however, was, not as to the sincerity of Austria in what she professed, but as to what was the meaning of her professions, and what assurance we had of her co-operation in the event of the Emperor Nicholas so far complying with the demands addressed to him as to retire from the Principalities, while he announced his determination to retain all his existing possessions. I have certainly heard with much satisfaction one portion of the speech of my noble Friend opposite. I recollect that my noble Friend on a former occasion declared that, as we were embarked in this war, we were embarked in it for no trifling object—that we had to deal with a great question which had been growing up for years, and almost for centuries—that the solution of that question was now forced upon us—that it must be settled once and for ever, finally and decisively; and I must again say that I rejoice to hear that declaration repeated by my noble Friend, in answer to my noble and learned Friend behind me, because sure I am of this, that the people of this country, however unwilling they might be to enter into a war

at all, however much they might feel the pressure which it must impose on their resources, and much as they might recoil from all the inconveniences, the dangers, and the horrors by which it must be attended—sure I am, that whatever might be their disinclination to enter into a war, their disinclination and their disgust would be infinitely greater at the conclusion of a shameful and dishonourable peace. And a shameful and a dishonourable peace I am confident they would declare that to be which should not effectually bridle the growing ambition of Russia, restrain her not merely within her existing limits, but wrest from her those portions of her conquests, her retention of which is dangerous to the tranquillity and the independence of Europe, and take not moral but material guarantees, by which the renewal of her ambitious projects, and of her disturbance of the peace of Europe, might be effectually and permanently checked. I quite agree with my noble Friend, that it is not for us to say now what should be the precise terms on which alone we would consent to the restoration of peace. But this I will say, that I am convinced that the people of this country, having expended very large sums in making preparations for this war—having made incredible exertions for that purpose, and being prepared to make still greater exertions, and to bear all the inconveniences which must be the result of those efforts—I am convinced that the people of this country will not be satisfied unless you show them that security has been taken for the future independence, not of Turkey alone, but of the neighbouring States, against Russian aggression. And, above all, as my noble and learned Friend said, and said most truly, it is for us an object not only of policy, but of binding honour and duty, not to desert those gallant mountaineers who are now engaged in a struggle into which we have encouraged them to enter, and in which we have already afforded them our assistance. I believe that if we were now to make terms for ourselves only with Russia, and leave her to deal with them while she has no other enemy to encounter, we should be betraying a duty which we owe to mankind, and exposing ourselves to indelible disgrace. I say that for the future it is impossible to admit that the Black Sea shall be a Russian lake, or that the Danube shall be a Russian ditch, closed up by mud and filth against the commerce of the world. I say

that we must have material guarantees for the peace of Europe. I rejoice at the language held upon that point by my noble Friend opposite on the part of Her Majesty's Government. That language, I am sure, will give universal satisfaction to the people of this country; that language justifies the interpellation which has been so ably made by my noble and learned Friend near me; that language, I trust, the country will see followed up, on the part of the whole of Her Majesty's Government, by acts vigorous and decisive as the language of the noble Earl.

THE EARL OF ABERDEEN: My Lords, my noble Friend (the Earl of Clarendon) has so fully expressed the views and intentions of the Government upon this subject, that little remains for me to say. At the same time I cannot help making a few observations in reference to what has fallen from my noble and learned Friend (Lord Lyndhurst). I think that the speech of my noble and learned Friend would have been somewhat more appropriate and in place three months ago than it is at this moment. At that time it might have been, perhaps, necessary to stimulate the feelings of this country—the indignation and the martial feeling of this country—against a Power with which we were not yet at war; but having engaged in a war with Russia, I think it was not requisite to indulge in that eloquent and protracted Philippic which my noble and learned Friend delivered to the House in a detail of the policy of the Russian Government for many years past. My noble and learned Friend reminds me of old times. I recollect, five and twenty years ago, having had the pleasure of making known to him—then sitting on the woolsack—the French Ambassador of that day—a man of lively imagination and much wit; his observation to me afterwards was, speaking of my noble and learned Friend, “Chancellor, did you call him? Surely he is a colonel of dragoons.” Now, it seems to me that my noble and learned Friend's speech to-night partook of the characteristic thus ascribed to him. Most happy am I to find that my noble and learned Friend retains all his vigour and martial energy; and I have only to observe that I think the speech would have been more appropriate if it had been delivered before we had entered into the war than after we have fully engaged in it, and when we do not require such incentives to stimulate us in its prosecution. Now, this war was, at its commencement, so strictly

of a defensive character, that I can fully understand the cause of that apparent ambiguity in expression to which my noble and learned Friend has referred. Your Lordships will recollect that the object was to resist the unjustifiable aggressions of Russia against the Turkish territory. This was the declaration of Her Majesty when publishing to the country the cause of the war. Her Majesty declared that the purpose of the war was to protect an ally against unjust aggression. Throughout, the integrity of the Turkish empire and the independence of the Sultan were put forth as the main objects—I may say the exclusive objects—of the war; and, therefore, it never occurred to provide against the Turkish conquests on the Russian territory. Our object, and the object of Europe, in all those protocols and engagements, was to preserve entire the territory of Turkey and the independence of the Sultan. Consequently in reciting these objects there might, no doubt, appear ambiguity in confining the objects of the war to those points to which I have adverted, and in not taking into view the possibility of any encroachment on the Russian territory; but that does not follow the least in the world from any engagements to which we are a party. Austria is an independent Power, and most happy have we been that Austria has agreed with us so far as she has done; but if Austria refuses to go further than these engagements, to which all four have been parties, what power have we to compel her to do so? Austria is acting now with a view to consult her own interests and the general interests of Europe. Austria is now listening to the advice of that veteran and able statesman whom my noble and learned Friend has eulogised, and I cannot doubt will be guided by him, both in regard to her own interests and to the interests of Europe. Therefore I attach no weight to the apparent ambiguity to which my noble and learned Friend has referred. As to the conditions with which we would be satisfied as the conclusion of the war, and the objects we should hold in view in pursuing it, it would be both premature and unwise to pretend now to decide. My noble and learned Friend, to be sure, has given the Emperor of Russia due notice to fortify Sebastopol, because he has declared his determination to lay hands on that stronghold, and I dare say His Majesty the Emperor of Russia will follow my noble and learned Friend's advice.

*The Earl of Derby*

But the conditions for the termination of hostilities are, I say, those which can only be described by the expression "a just and honourable peace." Now that must depend in a great measure upon the progress of the war. If it should so happen that you find the Russians at Constantinople, it is perfectly clear that the conditions of the peace may be very different from what they might be if the allies should find themselves at St. Petersburg. Therefore the whole course of the negotiations must depend upon the varying progress of events. All I can say is, that at all times I shall advocate an honourable peace, though bent on obtaining the great objects we have in view—the security, integrity, and independence of the Porte, and, as far as reasonable, what is called the security of Europe, which, however, I cannot say I feel to be very much in danger by the chance of Russian aggression. For let me remind my noble and learned Friend, that when that disastrous Treaty of Adrianople, to which he refers, was concluded, at a time when the Russian troops were within fifty miles of Constantinople—a treaty I admit to be most onerous and disastrous—still no acquisition of Turkish territory was made by Russia. [*Intimations of dissent.*] Two or three small ports in Asia were taken possession of by Russia, but not an inch of territory in Europe; and the Principalities were evacuated. [A Noble Lord: The Danube.] The Danube? No doubt, I have already expressed my opinion in this House with regard to the Treaty of Adrianople; and no one has ever described the disastrous and onerous nature of its conditions more strongly than myself. But I say, considering the position at that time of the Russian army, which was almost at the gates of Constantinople, that treaty did not show any great desire of territorial aggrandisement. And what happened since that treaty was made, twenty-five years ago? Since that moment has Russia acquired a single inch of Turkish territory? Has Russia had any hostility with Turkey at all? None in the world. The only interference that Russia has had with Turkey has been to save the existence of the Turkish empire by sending a Russian army to Constantinople to protect it against Egyptian invasion. That is all that has happened since the Treaty of Adrianople. There has been no war, there has been no aggression, but only a single service rendered to Turkey by Russia. I think that, if we can secure

tranquillity for twenty-five years to come, we shall not do amiss; and that ought to be the object we should have in view. I quite agree with those who, notwithstanding they may have been led away by the excitement of the moment and the commencement of hostilities, still think that we ought never to close our ear against the voice of reason; and I for one, so long as, or as soon as ever I see the prospect of a just and honourable peace in view, shall most certainly endeavour to attain it. Now, this may not suit the spirits of those who are more bent upon hostile measures; but it must not be taken as implying that I am indifferent to the conduct of the war. On the contrary, I venture to say, that those who most desire peace may be most prepared to carry on war with the utmost vigour and determination—not to wreak vengeance on an enemy for whom personally we can feel no hatred, but to obtain with more certainty and security such a peace as we ought to desire. That is the reason and that is the motive which will induce me to carry on the war with the utmost possible vigour; and I do trust that in carrying on war, animated by these feelings, which ought to inspire all Christian nations, we may look for the attainment of the great object, peace, in a shorter time than many noble Lords appear to think probable.

LORD BEAUMONT contended that the apparent meaning of the document referred to was, that the view of the Four Powers were the same, and that this country was evidently bound, under the circumstances, to respect simply and purely the present territorial arrangements. He did not see why in the world this country should have had anything to do with the treaty between Prussia and Austria. It gave us no further advantage in the war; it was a treaty by which we had nothing to gain; it was, in fact, more a question between two German States. But, however clear and positive the language used by Austria and Prussia appeared to be, and however much confirmed afterwards by the Bamberg Conference, yet he could not but allow that the speech of the noble Foreign Secretary that night went a great way to remove the impression which the documents must undoubtedly have produced; and that advantage, even if it were all that the noble and learned Lord had obtained by bringing this subject before the House, was not to be despised. If the debate had ended with the speech of the noble Foreign

Secretary, there would have been every hope that the peace to be obtained would be a peace which would cripple Russia; and a peace, which did not cripple that gigantic Power and tend to strengthen its constant and mortal enemy, Turkey, would not be anything like such a peace as this country ought to be satisfied with in return for all the sacrifices it had made. But his hopes on this head had been somewhat cooled by the calmer language of the noble Earl at the head of the Government; and when the noble Earl spoke of the Treaty of Adrianople as not giving any territorial power to Russia, he almost feared whether a peace giving Russia, if not increased territory, increased moral power, would not be considered a necessity of the time. The noble Earl the Foreign Secretary had alluded to the offer of Austria to send troops into Montenegro and the northern parts of Albania to put down the insurrection. Now, if any papers had been communicated to the Government, showing what had passed between the Porte and Austria on that head, he should like to have them laid on the table of the House; because, not long ago, before the war with Russia broke out, Austria did all it could to protect the rebels in Montenegro, but now she was offering to send troops, under the command of an Ottoman general, to put down the very persons whom she had so recently sought to protect. He should like to be assured that it was the fact that, under no circumstances whatever, Austrian troops would enter any Ottoman territory without the positive demand of the Porte; and he repeated his request that all papers referring to the matter might be laid on the table.

House adjourned to Thursday next.

# HOUSE OF COMMONS,

*Monday, June 19, 1854.*

MINUTES.] PUBLIC BILLS.—1° Poor Law Board Continuance; Youthful Offenders; Union Charges Continuance.

2° Married Women; Warwick Assizes; Vice-Admiralty Court (Mauritius); Parochial Schoolmasters (Scotland).

## MINISTERIAL CHANGES—EXPLANATION.

MR. STRUTT: Sir, it is with very great reluctance that I rise to solicit the indulgence and attention of the House for a short time in reference to a matter to a certain degree personal to myself. I have waited for some time, expecting that some hon. Member, by alluding to the late

*Lord Beaumont*

changes in the Ministry, would have afforded me the opportunity of giving an explanation which I was desirous to make with reference to the circumstances under which I resigned the office which I lately held; but no such allusion having been made, and having heard that certain representations have been circulated with respect to these circumstances which are not only erroneous, but which are also, in my opinion, injurious to my character, I feel that it is due, not only to this House, of which I am a Member, and to the large body of constituents which I represent, but also, I hope I may add, to my own character—that that explanation should be no longer delayed, and that I should take the very first opportunity of making a short statement to the House; and, if the House will give me leave and grant me their indulgence, for this purpose I will confine myself as concisely as possible to a brief and simple relation of the facts connected with it. Perhaps, however, I should first give a short explanation with respect to the circumstances in which I was placed when I held the office which I have lately resigned. At the time of the formation of the present Government the noble Lord, who now holds the office of Lord President, (Lord John Russell) did me the honour, acting on behalf of the noble Earl at the head of the Government, to request my acceptance of the office of Chancellor of the Duchy of Lancaster. That offer was totally unexpected on my part. I knew at that time but little, either of the nature or the extent of the duties of the office which was offered to me. I knew this much—that it was an office of a certain station in the Government—that it was an office which had been held on various occasions by Members of the Cabinet and by persons possessing very much greater pretensions to office than any to which I could lay claim; and I also knew that, although the duties of the office could not be supposed to be very laborious, it had usually been held in connection with other duties, and often by Members of the Cabinet to whom were assigned other labours besides those which fell to them from the office itself. Under these circumstances, in accepting it I stated to the noble Lord that in doing so I should consider my whole time and any services which I could render to be at the disposal of the Government. After I had held the office for a certain time, I found that, although some of the duties were by no means unimportant, and al-

though they afforded me an opportunity, of which I endeavoured to avail myself, of effecting some improvements in the administration of the affairs of the Duchy, those duties were not more laborious than I had reason to expect, and that they were not accompanied by the discharge of any Parliamentary duties connected with the Government in this House. Under such circumstances it appeared to me that the office was not one calculated to be satisfactory to any man who was anxious, in taking office, that his whole time and energies should be devoted to the duties of the office intrusted to him. I made no secret of this opinion of mine. I took opportunities of expressing it in official communications which I made with respect to the duties of the office. Under these circumstances, I could not look forward with apprehension to any event which might have the effect of relieving me from the situation in which I found myself placed. Nevertheless, in stating that, I am bound to add that, having stated when I accepted office, that I considered my whole time at the disposal of the Government, it certainly was not my intention to shrink from any duties which had been, or which might be assigned to me, so long as my services were required. Having said thus much with regard to the circumstances under which I held office, I will now proceed to advert to the circumstances which led to my resignation of it. On my return to town, at the conclusion of the Whitsuntide holidays, I received a letter from the Lord President of the Council, to which I lost not a moment in replying. That letter was written by him on behalf of the noble Earl at the head of the Government, and the result of the communication which was made in that letter, and at a subsequent interview which I had with the noble Lord at his own residence, was this—that the Government found themselves placed in a position of considerable difficulty with respect to certain arrangements which they considered to be most important for the public service, and that the disposal of the office which I then held would enable them to relieve themselves from those difficulties. I further ascertained, on inquiry, that all the necessary arrangements had already been made. I ascertained, also, that the acquiescence of all those parties who were concerned in those arrangements had been already obtained, and that, in fact, the final conclusion of them was only waiting for the expression of my concurrence. Under these

circumstances, I trust I need not say that I did not hesitate for one single moment as to the answer which I should give. It certainly did appear to me, when such a communication was made to me on the part of the responsible head of the Government, that it was impossible for me, with a due regard to the interests of the public service, and, I may say still more emphatically, with a due regard to my own personal feelings, to take any other course than that of instantly placing the office which I held unreservedly and unconditionally at the disposal of the Government. This is a simple statement of the facts which led to my resignation of the office which I held. But before sitting down I should wish, with the permission of the House, to advert to certain reports which have been circulated on this subject, some of which are calculated to be injurious to my character, and to which I am anxious, therefore, to give a distinct contradiction. I understand that it has been said in some quarters, that my sudden and unexpected resignation of my office could only be accounted for on the supposition that I held it under some understanding, and that in resigning it I was, in fact, only fulfilling some previous engagement. Another report, which has been very general, was, that I had been previously consulted with regard to the proposed arrangements, that I had had the opportunity of giving an independent judgment upon them, and that, in consequence of my strong approval of them, I had tendered my resignation, and had by so doing made myself a party to those arrangements. Another report, which has also been very generally circulated, was, that I was supposed to have attached some condition to my resignation—some condition for my own benefit. Now, Sir, to all these reports I give a most unqualified contradiction, in the face of the House and of the country. They have not the slightest foundation in fact. With respect to the first point, I will only say that I held the office I vacated on precisely the same terms as any other Member of the Government, and I would not have consented to hold it on any other. With respect to the second point, I must say that, whatever view I may have entertained or expressed with regard to the arrangements in question, I knew no more of them than any other Member of this House until they were completed, with the single exception of my own resignation; and of that, not until the time had arrived when I felt that

it was impossible to refuse it. I can, therefore, in no respect whatever be considered a party to the arrangements in question. With respect to the last point—namely, that I have myself attached some condition to my resignation—I trust it is scarcely necessary for me to give a contradiction to that statement. I have already said, and I now repeat, that on the first moment this suggestion was made I at once unreservedly and unconditionally, without one instant's hesitation, and without the opportunity of consulting one single Friend, placed my office at the disposal of the Government. In doing so, under the circumstances I have mentioned, I certainly cannot claim the merit of any great personal sacrifice, so far as regards the mere possession of office. I performed that which appeared to me a simple clear act of duty, and the only apprehension which I have since had has been lest my conduct and my motives should have been misunderstood. There is only one other point to which I wish to allude. Throughout the explanation which I have just addressed to the House I have been most anxious not to say one single word or utter one single observation with reference to the conduct of any other person in these transactions. I have felt that in the peculiar position in which I found myself placed I should be acting in a manner most consistently with good taste, and certainly most agreeable to my own feelings, if I confined any observations which I had to make to a simple statement of facts, and to a simple vindication of my own character, without making the slightest observation or remark on the conduct of any other person. It is with some pain and some embarrassment that I have made this explanation, but I most cordially thank the House for the attention and kindness with which they have listened to me.

#### OXFORD UNIVERSITY BILL.

Order for Committee read.

House in Committee, Mr. BOUVERIE in the Chair.

LORD JOHN RUSSELL said, that he had promised on a former occasion to state the names of the Commissioners, in addition to those included in the Bill, together with the names of the secretaries. The additional Commissioners were to be, the Earl of Harrowby and Mr. George Cornwall Lewis. The secretaries would be, the assistant secretary employed in the late Commission, Mr. Goldwin Smith, and the Rev. Mr. Wayte.

*Mr. Strutt*

On the Motion of Sir WILLIAM HEATHCOTE, clause ordered to be inserted after Clause 30—

"And whereas the College of St. Mary of Winchester near Winchester shall for the purposes of this Act be subject to the provisions of this Act with respect to Colleges, and shall have the same or the like powers as are hereby given to the Colleges of the University, and be subject to the authorities hereby conferred on the Commissioners for the Alteration and Amendment of Statutes, in like manner as is hereby provided with respect to the Colleges of the University, but without prejudice to the powers and authorities, if any, of the Commissioners under 'The Charitable Trusts Act, 1853.'"

MR. PHINN moved the following clause—

"And whereas it is expedient to prevent credit being given to persons studying at the University of Oxford, who have not attained the age of twenty-one years, Be it Enacted, That, from and after the passing of this Act, no action or suit shall be commenced or maintained in any Court of Law or Equity for the recovery of any debt or demand contracted or incurred by any person under the age of twenty-one years, who at the time of the contracting or incurring such debt or demand shall be a student in the University, nor upon any deed, bond, or obligation given as a security for any such debt or demand so incurred by such pupil while under the age of twenty-one as aforesaid."

The hon. and learned Gentleman said his original intention had been to make the clause more extensive, and to apply to all Universities and schools; but on receiving an intimation from the Chairman, that that would be beyond the scope of the Bill, he had altered the clause so as to limit its operation to debts contracted within the University of Oxford. The subject of restraining the expenditure and extravagance of young men at Oxford had engaged the attention of all persons anxious for University reform; but he was convinced that the only mode of effectually doing it was by providing against any possibility of the law assisting those persons who gave credit to students recovering their claims. At present the plea of infancy was often set up to actions of this sort, and it might defeat all claims for articles which were not necessities; but lately juries had ruled that masonic ornaments, gold-headed hunting-whips, and such things, were necessities, and even that champagne and wild ducks for a supper were necessities. If this clause should pass, if a tradesman allowed a young man to have goods, he would have to trust entirely to his honour for payment. It might be said that there ought not to be any specific legislation

with regard to Oxford, but unless that feeling should be very strong, he thought it would be desirable to apply the principle to Oxford in the first instance, and afterwards to introduce it into kindred institutions. He trusted that even if his clause were rejected the discussion would elicit such an expression of opinion as to induce the Government to frame a general measure for the purpose of protecting young gentlemen from the evils to which they were now subjected.

Clause *brought up*, and read the first time.

Motion made, and Question proposed, "That the Clause be now read a Second Time."

MR. HENLEY felt disposed to argue the question rather on general than on special grounds, seeing that the hon. and learned Gentleman did not intend his clause to be directed more against Oxford than any other place similarly circumstanced. It might be inconvenient and wrong for young people at the University to obtain goods from tradesmen; but the temptations held out to young men at Oxford were by no means of a special character, but applied equally to the young men in the Army and Navy, and an attempt to deal with the question would open a very wide field. It was a mistake to attempt to deal with the matter in this piecemeal sort of way. A greater curse could not be inflicted on either the young men or their parents, than by such an enactment as the one now under consideration. Parents, if they saw fit, could now refuse payment, and the law supported him unless tradesmen could prove that the goods supplied were necessary for the condition in life of the young man, and the matter was very properly left to the decision of a jury. Supposing the clause to pass, and the debt to be made a debt of honour, tradesmen would take care to put an enhanced value on every article supplied, as a kind of insurance, and that enhanced value would act as a kind of penalty on every person obtaining credit. He believed that such a provision would prove inoperative, and that the only security for tradesmen was in the good feelings of the young men, who would not contract debts without a prospect of paying them. He believed that a great deal that was said respecting the extravagance of the students at the University was wholly untrue and unwarranted, and he knew that a very large number of per-

sons passed through the University without any of the failings which had been referred to. He certainly should say "no" to the introduction of the clause proposed by the hon. and learned Gentleman.

THE CHANCELLOR OF THE EXCHEQUER thought it must be felt by all, that the question was one of very great difficulty. The temptations of the undergraduates were somewhat peculiar; but at the same time there was very great force in the objection which had been taken to exceptional legislation upon the subject. The principle of the present law, if he understood it rightly, was a sound principle—namely, that credit ought not to be given to persons under age, except for necessities. The hon. and learned Member for Bath had so far proved his case, that it was a matter of notoriety that the working of that law with regard to the Universities had not been altogether satisfactory. Whether this was owing to the manner in which juries were composed, or to other circumstances, did not appear; but the construction given to the term "necessaries" was certainly such as to defeat, to a considerable degree, the intention, meaning, and spirit of the law. He confessed that he could not refuse to go so far as to admit that a serious evil existed; but when the matter came to be considered, the question arose whether they ought to attempt to remedy the evil in the University of Oxford alone; and, in the next place, whether a clause of the nature submitted by the hon. and learned Member for Bath would be an appropriate and adequate remedy. He did not think it would be safe for the Committee to adopt the clause before them; and, looking to the character of the clause itself, and the extremely invidious aspect which attached to all exceptional legislation, unless it were most carefully guarded, he could not recommend it for adoption. An examination of the clause would show at once that a great difficulty would be found in its operation in places out of Oxford. Owing to the facilities of communication between one town and another, matters stood in a very different state now to what they did twenty, thirty, or forty years ago. Before railway communication became established, it might be assumed that what articles an undergraduate purchased he procured in Oxford; but it would be most unsafe to assume that now. The taste for ornaments and

luxuries at Oxford was steadily diminishing; but even when they were obtained they might be purchased in London of a tradesman who, in the first place, might be reasonably supposed to be unaware that the purchaser was an undergraduate of Oxford, and who, even if he was cognisant of that fact, was not likely to know of the existence of an exceptional law of this nature. Although he was far from going the length of saying that Parliament ought not to attempt to apply any remedy to this peculiar evil, yet he thought it quite plain that they were not at present sufficiently ripe for the adoption of this remedy.

MR. LABOUCHERE suggested that it might be possible, in the case of a debt incurred by a student of Oxford or Cambridge, to give jurisdiction in the matter to the Vice Chancellor's Court of the particular University concerned. These Courts possessed extensive powers, and were presided over by lawyers of eminence, and would be far better able to judge of what were proper necessities than a jury composed of tradesmen themselves.

MR. ROBERT PHILLIMORE supported the clause. He must condemn the temptations which were held out by tradesmen in Oxford and Cambridge to young men just entering the University. He also thought it improper that juries, generally composed of tradesmen, should be allowed to find that champagne and cigars were "necessaries of life" for young men of sixteen and seventeen.

MR. CARDWELL said, that whatever differences of opinion might exist upon this subject, the House seemed to be unanimous in a desire to throw obstacles in the way of extravagance on the part of young men, whether at the Universities or elsewhere, and in an opinion that this clause was not a proper one to be inserted in the Bill before the House. The truth was, that according to the law these matters were decided by a judge and jury, and it was not unfrequently objected that a jury did not afford equal protection to both sides. If that were so, the remedy ought to be sought in an improvement of the constitution of the tribunal before which such cases were to be tried. As things at present stood, a young man having no parents, and with limited resources, by husbanding his means and obtaining a little credit, was enabled to pass through the University honourably, and to obtain an education which might be the

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means of procuring him a fortune in after life. If this clause were agreed to, such an individual would have the door of the University closed against him, inasmuch as he did not possess the means of obtaining an University education without the assistance of a small amount of credit.

COLONEL NORTH objected to the clause, on the ground that it would be a step most fatal to the honour of the rising men of England, if they should be allowed to suppose for a moment, that because they were under age they might be dishonest.

MR. HEYWOOD supported the clause, and hoped the hon. and learned Member for Bath would divide the House upon it. He believed the agitation for the reform of the Universities would never cease nor be put down until the difficulty of the extravagance of the students at college was met.

THE SOLICITOR GENERAL said, he thought the Committee would agree that some power was required to protect young men from running a career of extravagance and wanton profligacy when at the University. He was, therefore, fully sensible of the importance of the object which the hon. and learned Member for Bath had in view; but he thought that there were serious objections to the clause by which he sought to obtain it. He did not apprehend any injury to the morals of the young men themselves from the introduction of a clause to that effect, and he believed it would give very great protection to the parents and friends of the students. The student at college was, in reality, resident under the roof of a *quasi* guardian, and every encouragement was given by the colleges at Oxford to young men to deal only with such tradesmen as adopted the practice of giving no credit at all. The great obstacle to the effectual utility of the clause seemed to be, that, though it would prevent a resident student under twenty-one years of age obtaining credit in Oxford, he might obtain it in London or elsewhere from tradesmen who were ignorant of his position. A difficulty which had occurred to his mind was this—whether this clause could not be qualified by taking away from tradesmen the power of recovering after they had received notice that any young man dealing with them was a student of the University. He should recommend his hon. and learned Friend to postpone the clause, and to confer with the Attorney General and himself, so that they might see whether a

clause could not be framed which should meet the difficulty better than this one did.

MR. J. G. PHILLIMORE thought his hon. and learned Friend would be justified in withdrawing the clause after the suggestion just made by the Solicitor General. At the same time, so strongly did he feel on this subject, that if his hon. and learned Friend (Mr. Phinn) went to a division, he should vote for him.

MR. PHINN said, that his purpose had been served by bringing this matter under the attention of the Government, and eliciting the opinion of the House upon it. He thought the Committee would agree with him that an Oxford University Bill which did not make some provision in regard to this matter would be an exceedingly defective one. His object was, not to relieve the parent of a student from any of his present liability, but to protect the young man in order that he might not be tempted to conceal from his father the extent of his extravagance, and might not, at the end of his University career, find himself indebted to an amount which would embarrass him during his whole life. The father would still remain liable for the son's necessary debts, and if he did not supply him with money to meet ordinary expenses suited to his station in life, and if the son obtained clothes and books which he wore and used, a jury would enforce the claim against the father. He would, in consequence of what had passed, withdraw his Motion.

MR. HENLEY said, he was fully aware of the extent of the evil and the necessity of finding a remedy; he only protested against exceptional legislation on this subject; but if the hon. and learned Member for Bath, instead of carrying his object by a clause in a Bill, would bring in a general measure, he would co-operate with him in repressing extravagance.

MR. CRAUFURD thought that the authorities of the Universities would be able to meet the evil complained of by making such regulations, with regard to the tradesmen who were under their control, as should discountenance the giving of credit to persons who were in *statu pupillarum*. At Cambridge he believed great encouragement was given to high charges and a system of long credit by the practice of sending in accounts to tutors. The result was, that the accounts which were longest unpaid, and on which, therefore, an addi-

tional charge was made by way of interest, were those which were sent in through the tutors.

SIR WILLIAM HEATHCOTE said, that at Oxford there was no such practice as for the tutors to interfere in the payment or regulation of tradesmen's accounts. He suggested that the course proposed by the hon. and learned Member for Bath would only be to transfer debts from the Oxford tradesmen to those in London. It was a fear of causing this which led to much of the tenderness exhibited by the University authorities to tradesmen.

MR. GOULBURN said, that the statement of the hon. and learned Member for the Ayr Burghs (Mr. Craufurd) would not apply to the University of Cambridge any more than to that of Oxford. At Cambridge the tradesmen were bound, at the end of each term, to send in to each tutor the accounts of the young men under his charge, to be by him examined; and to his (Mr. Goulburn's) knowledge the tutors frequently called the attention of the parents of a young man to anything which they thought to be extravagance on his part. These accounts were regularly paid by the tutors when they received the money from the parents of the students, and any delay which might occur in particular cases must arise from the neglect of the parents to remit the money to the tutor.

MR. CRAUFURD said, that he had spoken of facts which had come within his own knowledge during a six years' residence at the University of Cambridge. A tutor of Trinity College, of which he was an undergraduate, left the college without paying any of the bills, for which he had received the money.

MR. GOULBURN said, that the hon. and learned Member had founded a general statement upon an exceptional case. Many years ago a tutor of Trinity College did misapply the funds; but he defied the hon. and learned Gentleman to prove that at the present moment such a practice prevailed in regard to any tutor of any college.

MR. PHINN said, that, acting on the understanding which had been come to, he would, with the permission of the House, postpone the consideration of this clause, and also of some subsequent ones providing for the regulation of the proceedings of the Vice Chancellor's Court by the rules of common law, until Thursday next. But so strongly did he feel the necessity of apply-

ing some remedy to this evil, that unless he had then come to some arrangement with the Solicitor General, he should be disposed to press this clause as it now stood.

MR. CRAUFURD, in reference to the remarks of Mr. Goulburn, said, that he had not drawn his inference from one case, but from his knowledge of cases of the description to which he had referred having occurred, and from the fact that men of his own standing at college, who wished to obtain goods economically, never allowed the accounts to be sent to the tutor, by which course they got the goods five per cent cheaper than they would otherwise have done.

Motion and clause, by leave, *withdrawn*.

MR. BLACKETT moved the following clause—

“It shall henceforward be unlawful to administer any oath on admission to any office or emolument in the said University or the colleges thereof.”

The hon. Member said, that it had been suggested to him that he should make an exception in favour of the oaths of allegiance and supremacy; and while he thought such a course would be unnecessary, as he believed that these oaths were administered only on the taking of a degree, he should not object to make such an exception. He would not repeat the extracts which he read to the House on the previous evening, but would only remind it that the oaths to which he objected were such as referred either to matters of trifling importance and minute observance, such as that the heads of the fellows should be washed and shaved by the college porter, and others; and to such as referred to matters which were positively illegal, as the celebration of mass and the performance of the offices of the Church of Rome. There was another class of oaths of which he was not aware when he last brought this subject before the House. The professors swore that they would sing psalms in the High Street of Oxford, the words of the oath being “*tu cantabis in publicis processionibus*.” The argument with which he was met by the right hon. Gentleman the Chancellor of the Exchequer, when he last brought this subject before the House, amounted to this, that it was a serious thing to declare that in future none of these oaths should be administered. In reply to this he would remind the right hon. Gentleman that this was a course which had been contemplated

Mr. Phinn

and accepted by, he believed, every authority upon the subject. The Dean of Ely had given in his adhesion to it. Dr. Tyler had said that he was not aware of a single oath at Oxford which might not be advantageously abolished, and the Reports of the Commissions to inquire into the Universities of Oxford, Cambridge, and Dublin had all laid it down that it would be highly expedient, indeed that for purposes of efficiency it was absolutely imperative, to prohibit for the future the administration of any of these oaths. As far as Cambridge was concerned, the Commission upon that University did in this only adopt the recommendation of the Syndicate of that University itself. The right hon. Gentleman the Chancellor of the Exchequer suggested that the reform of these oaths should be left to the authorities of the colleges. He (Mr. Blackett) had no doubt that he used that argument in perfect good faith, but he would remind him that the Oxford University Commission had declared in their Report that it would be nugatory to give to the authorities such a power of reform. On every ground of expediency and academic discipline, therefore, he submitted that it would be well to make a clean sweep at once of these oaths, which they could do without travelling beyond the scope of the Bill, and in which they would only be following out the recommendations of the Oxford Commissioners. He should certainly take the sense of the House upon this point, and give those hon. Members who agreed with him the opportunity of recording their votes in opposition to the continuance of what he considered idle, mischievous, and blasphemous profanity.

Clause *brought up*, and read the first time.

Motion made, “That the said Clause be now read a Second Time.”

THE CHANCELLOR OF THE EXCHEQUER said, that this question divided itself into two parts, which ought to be kept more separate from each other than had been done by the hon. Member. The hon. Gentleman had quoted, with great truth and justice, and much force, various Statutes of the different colleges of the University of Oxford, and said it was highly improper (he had even gone the length of saying it was very profane) to bind persons to obey Statutes which it was either impossible or irrational to observe, and which, in point of fact, were not ob-

served. So far as that part of the case went, he (the Chancellor of the Exchequer) certainly entirely agreed with the hon. Gentleman; but the hon. Member would, at the same time, admit that almost all the cases he had quoted were the cases of Statutes that were in existence under cover of that extraordinary oath invented by William of Wykeham, and which bound those who took it not only to the observance of the Statutes, but also to the resistance of any change in them, and forbade them to obey any other Statutes which varied or departed from their tenor. Now, so far as that particular oath was concerned, it would be rendered entirely and absolutely illegal by the Bill now passing through the House; and it was not too much to assume that, by the act of the Commissioners who would be appointed to work this Bill, those Statutes and all such clauses in them as the hon. Gentleman had referred to, would very shortly cease to figure on the roll of the Statutes of these colleges. But then there were other oaths which were administered in the University on the admission, particularly, to fellowships. Now these oaths, generally speaking, so far as they did not fall within the sweep of the prohibitory clause of this Bill, were oaths of a simple promissory character (omitting now all reference to the oaths of allegiance and supremacy, which were not included in this Motion), and therefore he could not see that hon. Member's observation, or his censure of irreverence or profanity, was at all applicable to them. He (the Chancellor of the Exchequer) confessed that this was not a matter on which he had any very strong opinion; but this Bill had been framed, with regard to this particular subject, in the mode that was most conformable to its general principle. It was a Bill that trusted to the operation of enabling powers; and the Government had therefore endeavoured, by the measure as it now stood, to avoid the peremptory ruling and solving of any questions, excepting those which it was absolutely and imperatively necessary for Parliament itself to solve. They proceeded upon the principle that, within certain limits at any rate, confidence might be reposed in the authorities appointed to carry out this Bill, and also to a great extent that confidence might be likewise placed in the members of the colleges themselves; and he himself had a strong conviction that that confidence would be found to have been fully

justified. With regard to the oaths now in question—the promissory oaths—there was some difference of opinion in the University. By many members of the University he believed it was thought that the entrance to a fellowship or a college living was an act of great significance and importance; that the relations which persons who so entered contracted with one another were very close and intimate; and that, therefore, these occasions were occasions which it was most fit and becoming to invest with solemnity by the administration of an oath. Other gentlemen at the University of Oxford took a different view, and were of opinion with the hon. Member that it would be better to withdraw the oath, and trust, first, to the principles and the good feeling of those who were elected, and, in the second place, to the efficiency of their laws. Now what was proposed by the Bill was, that they should leave this question to be decided in the University and by the Commissioners, and he confessed that he thought it would be much better so to leave it, than to attempt to do something which would no doubt be regarded by many as an act violating the freedom of the colleges in the conduct of their own concerns, and for which he thought they could not allege any ground of necessity. He fully granted that there was a ground of necessity for interposing with regard to the oath against any change; and the Government had recognised that necessity by a clause directed against that oath; but in cases where the members of the colleges were simply bound to the observance of Statutes of their college which might be enacted by the lawful authorities from time to time, he thought that nothing should be done to restrain or tie their hands, or to prevent their giving the freest and fairest attention to this question. He certainly hoped that it might be the view of the Committee that they should leave the colleges perfectly at liberty to deal with this matter, subject to the control of the Commissioners, as they had done on many other questions of immense importance, in which it would be impossible to demonstrate that changes ought not to be made; but they were proceeding on the principle that such matters could be dealt with by others much more satisfactorily and more effectually than by Parliament.

MR. GOULBOURN concurred with the right hon. Gentleman, in thinking that a task of this nature would be better per-

formed by the Commissioners than by that House. In the University of Cambridge, where the power of dealing with this question was vested in the college authorities, alterations had been made in the Statutes, and now there were no oaths administered there that could give reasonable offence.

Mr. HEYWOOD supported the clause.

Mr. J. G. PHILLIMORE would vote for the clause, believing that these oaths were unnecessary, and that every unnecessary oath was in itself an evil.

SIR WILLIAM HEATHCOTE confessed he thought it would be very desirable to leave this matter to the authorities to deal with, inasmuch as some persons unquestionably desired some kind of acknowledgment in the form of an oath on entrance, and the propriety of retaining the oaths would differ according to the circumstances of each college, who would carefully consider the form of every individual oath; he should, therefore, be prepared to support the view taken by the Chancellor of the Exchequer.

Mr. EWART thought that this was a question of public morality, and that, as such, it should be dealt with by the House.

LORD JOHN RUSSELL advised the Committee to leave the matter to the discretion of the colleges and the Commissioners.

Mr. BLACKETT, in reply, said, he did not mean to charge any gentleman who had taken those oaths with profanity, but he thought, public attention having now been called to them, they would forfeit a great opportunity of abolishing a breach of morality and a great scandal if they did not do away with those oaths, which could confer no benefit either on the University or the country.

On Question, "That the said Clause be now read a Second Time," the Committee *divided*:—Ayes 71; Noes 109: Majority 38.

Mr. J. G. PHILLIMORE moved the following clause—

"That from and after the 1st day of December next ensuing, no person shall on account of his rank be permitted to pass his examination or to take a degree sooner than any other undergraduate."

The reasons for moving this clause were so very clear and simple, that he did not feel it necessary to enter into any detail or any statement whatever. His argument was this—if it was a good thing, everybody ought to share in it; if it was a bad thing, nobody should be subject to it.

*Mr. Goulburn*

Clause *brought up*, and read the first time.

Motion made, "That the said Clause be now read a Second Time."

COLONEL NORTH asked if the clause was intended to interfere with the present members of the University?

Mr. PHILLIMORE said it was not.

THE CHANCELLOR OF THE EXCHEQUER said, he should endeavour to imitate the brevity of the hon. Mover of this clause. The hon. Gentleman said the only question was whether the thing was a good thing or a bad thing; but he would tell the hon. Gentleman that there was another question, namely, whether it was a right thing for the Committee to do. He thought this matter also was a matter of detail which ought to be left to the University.

Mr. EWART should support the clause, wishing to see absurd and obsolete distinctions abolished.

Mr. HEYWOOD thought it desirable that the residence required from ordinary graduates at the University should be shortened, and he wished to see commoners allowed to take their degrees with as little delay as degrees could be taken by noblemen. He could not concur in the suggestion that the University should be left to deal with this subject, for he feared the University might entertain so much reverence for rank that no alteration would be made in the existing regulations. He would, therefore, feel it his duty to vote for the clause.

Mr. PHILLIMORE said, the Chancellor of the Exchequer had not told them whether he was in favour of the proposition or not. Here was a prominent evil affecting the civil rights of English subjects, and he now sought to remedy it.

On Question, "That the said Clause be now read a Second Time," the Committee *divided*:—Ayes 66; Noes 67: Majority 1.

Mr. BOWYER moved the following clause—

"And whereas it is desirable to restore the study of the Civil Law and Jurisprudence in the University of Oxford, Be it Enacted, That no degree of B.C.L. shall be granted or conferred by the University of Oxford, unless the candidate for such degree shall have been duly examined for the same in the elements of Jurisprudence and Justinian's Institutes of Civil Law; and no degree of D.C.L. shall be granted or conferred by the University (except honorary degrees), unless the candidate for such degree shall have been duly examined for the same in International or Public Law, and the Pandects or Digest of Roman Civil Law; and it shall be lawful for the Heb-

domadal Council of the University to make from time to time such regulations for and regarding such examinations as they may think fit."

The hon. and learned Gentleman said, the object of this clause was to restore to the University of Oxford the faculty of law, which he conceived was one of the most important faculties necessary to constitute a University. At present the degrees in civil law were acquired by a mere form. The degree of D.C.L. was granted after what was called a "wall lecture." The candidate for the degree was shut up with nothing but a wall to look at, and it was supposed that he was ready to dispute with any person who came to him. Nobody, however, did come; but, if anybody did present himself with the view of disputation, he (Mr. Bowyer) believed that in most cases the learned doctor would be very much puzzled as to the manner in which he should deal with his opponent. In many cases the candidate had not gone through any book on civil law, or learnt anything of the science in which he was allowed by the University to take the highest degree. He considered that Parliament should lay down some rules to prevent one of the most important faculties of the University from falling into decay and desuetude. He found a very strong recommendation for the revival of the study of the law in the University of Oxford in page 71 of the Report of the Commissioners. At page 72 the Commissioners stated that the study of the civil law ought not to be allowed to fall into complete desuetude, and the evidence given before the Commissioners fully justified the opinion they had given. The Commissioners had also recommended the institution of the study of international law; and he need scarcely remind his learned Friends around him that it was absolutely impossible for any one to obtain a competent knowledge of international law, unless he had made himself to some extent perfectly master of the civil law. They knew how important it was to have persons adequately trained for the office of Queen's Advocate, whose duty it was to advise the Crown on matters regarding the relations of the country with other nations. There were now measures before Parliament having for their object the reform of the Courts of Doctors' Commons, and one of the effects of those measures, whatever might be their merits or demerits, would be to cause the extinction of a body of persons conversant with a

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science which was of great importance to the public service, and though he was not then going to enter into that matter, he referred to it as an additional reason why they should take measures to revive the academic study of that science. All persons engaged in the diplomatic service should be acquainted with international law, but many of them had never had an opportunity of learning even the rudiments of it. Therefore they were unable, when they came to argue questions with the Ministers of foreign States, to meet them in argument, or to understand the full force or bearing of the State papers, or of the authorities cited in those State papers. That was another reason why they should not neglect the academic study of this science, which was so necessary for the public service. He thought the University of Oxford would be rendered an engine of very great advantage to the country compared with what it had been, if, in addition to the study belonging to scholarship and belonging to antiquity, they added also other studies, such as that of the law, which would be practically useful to persons when they came into that or the other House, or were employed in the public service. If the revival of the faculty of law in the University actually took place it would be found valuable and important for practicable purposes, and not only would those who were intended for the legal profession go through that course of study which the University would lay down, but a certain amount of study in the civil law would be made a portion of the regular curriculum of University education. The hon. and learned Member quoted Archbishop Chicheley and Lynwode in support of his view as to the great expediency of these studies at the University, and contended that, in effect, the granting degrees in civil law, as practised at the University now, was in fraud of the intentions of the founders, who had left directions that those degrees should be made conditions on their benefactions; for it was manifest that these founders contemplated that the degrees should be *bonâ fide* degrees and real tests of proficiency.

Clause *brought up*, and read the first time.

Motion made, and Question proposed, "That the said Clause be now read a second time."

THE CHANCELLOR OF THE EXCHEQUER said, he appreciated fully all that had been said by the hon. and learned

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Gentleman as to the importance of the study of the civil law, and the great benefit to be derived from it, but at the same time he must say that the clause which he had proposed was out of place on the present occasion, because it presumed altogether a different idea of the functions of the House, and of the task then before it, from the true one, and seemed to rest upon the suggestion that they were engaged in constructing a system of study for the University of Oxford. The main objection he had to the adoption of the clause was, that it would be entirely inconsistent with the general framework of the Bill, which was to put the University of Oxford into a position to do its own business for itself, but not to undertake to do its business in its stead; and until they should see how they acted, Parliament would not be in a position to judge how far it was necessary to interfere by a positive provision of this kind. The same argument as that which had been used by the hon. and learned Gentleman would apply to the study of theology and of other faculties, and they would be involved in the performance of a labour for which they were entirely unfit, but for the performance of which the University of Oxford was not unfit. He should be sorry, at the same time, to see a clause of this kind negatived, because it contained important matter, and an adverse vote, would do injustice to the clause; but he trusted that the hon. and learned Gentleman would not prematurely press upon them a proposition of this kind. He would suggest to him to withdraw the clause, and begged he would accept his thanks for the able and friendly interest, the highly intelligent interest, he had displayed in the University by the speech he had made.

MR. HENLEY also trusted the hon. and learned Gentleman would withdraw the clause as having nothing to do with the purpose of the Bill.

MR. ROBERT PHILLIMORE agreed with the hon. and learned Gentleman who brought forward the Motion, that any attempt to teach international jurisprudence without laying down as the basis for it an acquaintance with the civil law, would result in knowledge of the most inadequate description; but lately at Oxford, those who took degrees in civil law had been subjected to real or *bonâ fide* examination in some of the authors to whom the Motion of the hon. and learned Gentleman had reference. He thought it would be very unwise on the part of the hon. and learned

Gentleman to press this question to a division; but he very much rejoiced the discussion had taken place, because it was important that the University of Oxford should be impressed with the notion that Parliament was not indifferent to the study, and did not wish that the sums of money left for the purpose should be diverted from that object.

THE SOLICITOR GENERAL was quite sure the Committee would concur with him in high appreciation of the hon. and learned Gentleman's motives for bringing forward a subject upon which he was so distinguished an authority. The proposition which the hon. and learned Gentleman had made, could not but have its full weight with those who would have the further development of the resources of the University in their hands; and he trusted the hon. and learned Gentleman would, therefore, not feel it necessary to press his clause upon the Committee. The general principles involved in the Motion of the hon. and learned Gentleman were already embodied in the Bill, but had reference not to the subject of law only, but to all the subjects contained in the University examination. It was unnecessary, therefore, to lay down these principles with regard to the faculty of law, unless they went on to repeat them with regard to divinity, medicine, and any other branch of instruction which either was or might be hereafter included in the *curriculum* of University education. He thought his hon. and learned Friend might very safely leave it to the superintending authorities in the University under this Bill so to perfect the course of studies there as to give the students that full, that comprehensive education which would enable them, with credit to themselves, and benefit to the community, to fulfil their moral and social duties and perform their political obligations. He would call to his hon. and learned Friend's recollection, that there was a subject now engaging the attention of the Law Commission that would have an important bearing on the subject in which he was so interested—the question, namely, of effecting, on the part of the Inns of Court, the complete fulfilment of the great and important mission with which they had been originally charged—to provide effectually for the legal education of the country. The course recommended by the hon. and learned Gentleman might, possibly, be most inconvenient with reference to that question, and, if embodied in an Act of Parliament,

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it could not hereafter be modified. He hoped, therefore, that his hon. and learned Friend would not press his Motion upon the House.

Mr. HEYWOOD said, he did not see the advantage of reviving the ancient system of the study of civil law in the Universities, as the hon. and learned Gentleman proposed. The system was dying away, and he saw no sufficient reason why they should endeavour to revive it to any great extent. It ought, at any rate, to be put on quite a different footing. He was aware that, on the Continent, the study of the civil law was regarded as an excellent mode of improving and strengthening the intellect; but he thought there were many modern works, the study of which was likely to be as helpful to the intellect as the *Pandects of Justinian*.

Mr. EWART said, the Statutes of 1830 had in fact revived the study of the civil law at Oxford. He was glad that the hon. and learned Gentleman had raised the question of diplomacy, even in passing, in relation to this subject. He did not see where diplomatists could receive a preliminary education so well as in the Universities, and he hoped, therefore, that the attention of those learned bodies, which were the natural feeders of the diplomatic profession, would turn their attention to the study of the civil law, and especially of international law.

Mr. NAPIER said, the great excellence of this Bill was, that it untied the hands of the University, that it was simply an enabling measure, and that it left free action to the heads of the University in the regulation of the *curriculum* of studies. That principle would be invaded if the House agreed to the present clause, and he trusted, therefore, that the hon. and learned Member would withdraw it. In saying this, he did not at all undervalue the importance of the study of the civil law, which he believed to be indispensable to a thorough knowledge of law. At the same time, he thought the province of the University was rather to promote the general education of the students than to impart instruction in particular studies, with the exception, indeed, of theology—a knowledge of which should, he thought, be acquired there.

Mr. BOWYER said, that, after what had fallen from the Chancellor of the Exchequer and the Solicitor General, he would not hesitate for a moment to withdraw his Motion; but he thanked the right hon.

Gentleman and the other Members who had taken part in the conversation for the favourable manner in which they had received his proposal, and he hoped that what had passed would have the effect of directing the attention of the University authorities to the subject.

Motion and clause, by leave, *withdrawn*.

Mr. HEYWOOD said, that he had given notice of a clause which he feared would be liable to the same objections which the Chancellor of the Exchequer had made to the clause of the hon. and learned Member. Its object was to provide that, during the last year of the academical course, all students shall be left free to devote themselves to some special branch or branches of study, and to select their own tutor or professor. He should not, however, press the clause, but should assent to its being negatived.

Clause (During the last year of the academical course, all students shall be left free to devote themselves to some special branch or branches of study, and to select their own tutor or professor), *brought up*, and read the first time.

Motion made, and Question, "That the said Clause be now read a second time," put, and *negatived*.

Mr. HEYWOOD then proposed clauses, enacting that the Commissioners shall, within one year from the passing of this Act, prepare balance-sheets of the present state of the revenues of the University, and of all the colleges and halls of Oxford, and shall forward the same to Her Majesty's Secretary of State for the Home Department, with a view to their being presented to Her Majesty and to both Houses of Parliament; that the Commissioners shall be authorised to examine the unpublished copies of Royal Commissions and of academical Statutes belonging to the University and colleges of Oxford, and to suggest alterations in the college Statutes, more especially tending to an improvement in the system of succession to college endowments; and that the Commissioners shall revise the table of fees exacted by the University, so as to equalise all fees demanded for the same purpose, and to abolish all those which are exacted for no service, or which are unnecessary, due regard being paid to vested interests. He thought these clauses were rendered necessary by what took place when the late Commission issued. That body, one of the objects of which was to examine into the revenues of the

University, having required accounts of their receipts from all the colleges, some of them, amongst which he might mention Brasenose, refused to give any information with respect to money matters; although he believed they had in reality no reason to shun inquiry. Others, however, had brought forward their balance-sheets in a plain, straightforward manner. He thought it was of importance that this Motion should be agreed to, as it would be a recognition of these colleges being public institutions. On public principle he thought they ought to ask that a copy of the accounts of all the colleges should be laid before Parliament. This would be a proof that they recognised them as public institutions, and it was on that ground that he asked the House to assent to the Motion.

Clause (The Commissioners shall, within one year from the passing of this Act, prepare balance sheets of the present state of the revenues of the University, and of all the Colleges and Halls of Oxford, and shall forward the same to Her Majesty's Secretary of State for the Home Department, with a view to their being presented to Her Majesty and to both Houses of Parliament,) *brought up*, and read the first time.

THE CHANCELLOR OF THE EXCHEQUER said, that after the admirable example which the hon. Member had set with respect to the first clause, he felt the less hesitation in advising him also to withdraw those then under the consideration of the House. There was not, perhaps, one word in the clauses of which the hon. Gentleman had given notice, to which he could object on the merits. He was sure, however, that clauses of this kind would be likely to create dislike and alarm at the University, although, perhaps, these feelings might not be perfectly justified. At the same time, he would not have urged this alone as a reason for the withdrawal of these clauses. The first, however, was entirely unnecessary, as the 4th clause of the Bill gave the Commissioners who were to be appointed under it power to call upon the University and the colleges for the production of documents and accounts, and it would no doubt be their duty to exercise that power. The accounts so obtained would in due course be transmitted to the Crown, and would then, according to the usual practice, be presented to Parliament. He must observe that what had taken place under the former Commission was no guide as to what was likely to occur under the new one. The first being merely

*Mr. Heywood*

issued under the authority of the Crown, many fellows and heads of houses thought themselves precluded by their oaths from divulging any information which might result in prejudice to their colleges; their only duty, however, would clearly be to obey a Commission appointed under the authority of Parliament. The next clause was perfect surplusage, inasmuch as it only set forth in detail part of what was fully contained in the 4th clause. No doubt, the Commissioners would, quite independently of anything contained in this Bill, make suggestions to the University authorities; but to empower them to make suggestions conferred upon them no real authority, and he could not help thinking that it was not compatible with the dignity of Parliament to give the Commissioners power to make recommendations if they did not also give them power to carry those recommendations into effect. He thought also that it would be unwise to insert a table of fees in this, which was simply an enabling measure; for it was clear that, if the University was not competent to revise its own table of fees, it was not competent to deal with the much more important matters committed to its discretion. He thought it was not desirable at present to interfere in detail with the regulations of the University, but to allow a reasonable time to elapse during which it might be seen what was the working of the constitution that had been given to that body.

Mr. HEYWOOD thought there were several matters on which the Commissioners might make excellent suggestions. The rules with reference to compulsory celibacy and compulsory ordination were, for example, very bad rules, and to these the attention of the Commissioners might well be directed. He thought, also, that Parliament should know what the suggestions of the Commissioners were. After what had been said by the Chancellor of the Exchequer, he did not wish to press these clauses to a division.

Motion made, and Question, "That the said Clause be now read a second time," put, and *negatived*.

On the preamble being put,

THE CHANCELLOR OF THE EXCHEQUER proposed to omit the following words—

"And for ensuring the enjoyment of fellowships and other collegiate endowments according to personal merit, and for promoting the main designs of the founders both as respects the appointment to the said endowments and the continued tenure thereof, and for charging portions of the

endowments or income of colleges in certain cases with duties to be performed for the benefit of members of the University at large."

It was not proposed to part with any portion of the substance of the preamble, but the fact was, that when the latter portion of the Bill was rendered merely enabling, it had been thought better that this passage, relating to the college endowments, should be prefixed to such merely enabling portion of the Bill, and it had accordingly been inserted in the 31st clause.

*Motion agreed to.*

*Bill reported*; as amended, to be considered on *Thursday*.

#### SUPPLY—POSTAGE OF PRINTED PAPERS.

On the Order of the Day being read for going into Committee of Supply,

Mr. MILNER GIBSON rose to call the attention of the Secretary to the Treasury, in the absence of the Chancellor of the Exchequer, to the subject of the postage of printed matter—he did not mean newspapers—which was at present allowed to go through the post up to a certain limited weight. He understood there was a Treasury order which permitted printed matter (not being newspapers) to go through the post for a penny, the newspaper stamp being affixed to those particular copies which were intended to be sent through the post merely for postage purposes, and not because the paper really was a newspaper. He wished, in the first place, to ask whether there was any objection to lay this order on the table; and in the next, to call the hon. Gentleman's attention to the circumstance that the Board of Inland Revenue, acting under that Treasury order, required persons to make what might be called a false declaration in order to obtain the privilege thus afforded. Persons who desired that their printed matter should go through the post, franked by the newspaper stamp, were called upon by the Board to make a solemn declaration that these printed pamphlets were newspapers, when everybody knew they were not newspapers, and when the parties themselves and the Board of Inland Revenue were perfectly conscious they were not. He had an instance of this before him. There was a publication called the *Quarterly Statement of the Society for Promoting the Employment of Additional Curates in Populous Places*. Now it was clear that this publication could not be a newspaper; yet he found Mr. Richard

Clay, of Hornsey, in the county of Middlesex, printer and proprietor of this *Quarterly Statement*, affirming that it was a newspaper, in order to obtain the postal privilege in question, and saying, "I do make this solemn declaration, conscientiously believing the same to be true." He certainly thought that if it were the intention of the Treasury to allow such publications as this to go through the post for 1d., persons wishing to avail themselves of the privilege should not be obliged to go through this most objectionable preliminary form of making a declaration amounting to something very like a falsehood. The Chancellor of the Exchequer himself was, he believed, a member of this Additional Curate Employment Society, and was, therefore, to some extent a participator in the system of making loose declarations, and thereby, if not defrauding the Post Office, at least of lessening the charge which this publication would have to pay for transmission by post according to the laws of the land. He (Mr. Gibson) thought that, both on moral and on financial grounds, the subject was one well worthy of consideration on the part of the Chancellor of the Exchequer and of the Treasury. He knew a gentleman who refused to make such a declaration, which he knew to be false, and in justice to those who entertained conscientious scruples the Government ought to put an end to the anomaly. He wished to ask whether the hon. Gentleman would have any objection to lay the Treasury order on the subject on the table of the House?

Mr. J. WILSON said, it was scarcely correct to charge the Board of Inland Revenue with calling upon these persons to make a false declaration. It was true that the Treasury, upon the representation of the Post Office, had so far relaxed the duty in regard to postage of newspapers as to allow certain pamphlets, not exceeding a specified weight, if duly stamped as newspapers at the Board of Inland Revenue, to pass free through the Post Office. But the Board of Inland Revenue had nothing whatever to do in requiring a false declaration on the subject. The Board was bound to take the declaration of any person who came before it, and said, "I am going to publish a newspaper," and who asked, therefore, that newspaper stamps should be attached to a portion of his impression. It was not for the Board to say whether the publication was a newspaper or not; they accepted the declaration made

to them, and allowed the stamp to be affixed. It was quite true that a variety of publications had of late years been issued and sent through the post under the character of newspapers, and nothing was more common than for merchants in sending their circulars abroad to call them newspapers. Undoubtedly such publications contained what those persons thought they were entitled to call news, such as accounts of the state of the markets and of the prices of goods; but when these gentlemen went to Somerset House, all that the Commissioners of Inland Revenue had to do was to see that when they granted the privilege in question the declaration required by law should be made. The proprietor or printer declared the publication to be a newspaper, and that he conscientiously believed all he had stated to be true; and it was not for the Board of Inland Revenue to doubt a man's word and to declare he had been guilty of a misstatement. He could have no objection to place the House in possession of either the original Treasury order or the subsequent correspondence which had taken place between the Treasury and the Post Office on the subject.

MR. BRIGHT thought the hon. Gentleman had not been very successful in apologising for the Board of Inland Revenue, for the Board could not but see that the publication in question was not a newspaper, as it was a quarterly publication, which, even according to the ill-defined state of the law as it at present stood, was sufficient to exclude it from that category. The right hon. Gentleman the Chancellor of the Exchequer was both a subscriber to this society and a member of the committee; both the Archbishops were members, and the paper was published under their auspices. He wanted to know why the Board of Inland Revenue should treat different persons in a different manner. In the case of this Society the stamp was affixed, under the pretext of its being a newspaper, to those copies of the publication that were sent to the country, while those copies that were distributed from hand to hand in town were published without a stamp. But it might be that in the very next street a person might come forward to make the same declaration with respect to his publication, when the Board would insist upon every individual copy being stamped. Therefore, though there was but one law, yet there were two applications of that law; and he was sure that

Mr. J. Wilson

the hon. Member for Westbury (Mr. Wilson) would be the first to admit that in all matters of taxation it was essential that that taxation should be levied with justice and equality upon all, and that the Board of Inland Revenue ought not to be allowed to constitute itself a kind of censorship upon the press, allowing a portion of one publication only to be stamped, and insisting upon the stamping of every other copy in the case of the other. The hon. Member said, that the Board of Inland Revenue had nothing to do but to receive the declaration of the proprietor or publisher, and that they took that at once as valid and true. But if a person brought a pair of boots to the Inland Revenue Office, and proposed to make the usual declaration in order that they might pass through the Post Office, he took it for granted that the officials would then open their eyes and discover that they were not a newspaper. He would take this opportunity of asking the Attorney General, whom he now saw in his place, what conclusion had been come to in the case of the *Penny Commercial Journal*, published by Mr. Shard, in Dublin, which had been prosecuted by the Government, and in which the proprietor of the paper had obtained a verdict in his favour. The Chancellor of the Exchequer, a short time ago, stated that in his opinion that verdict was a bad one, but that the question of a new trial had been referred to the consideration of the Attorney General. As it was desirable the decision of the hon. and learned Gentleman should be known, he begged now to ask him what opinion he had formed upon the case?

THE ATTORNEY GENERAL said, he would be happy on this as on every other occasion to give an explicit answer to his hon. Friend, but the matter had not come under his notice. It was an Irish prosecution, conducted by the Attorney General for Ireland, and he was not competent, therefore, to give any opinion on the subject.

MR. MILNER GIBSON said, the Chancellor of the Exchequer expressly stated that the matter had been referred to the English Attorney General.

The House then went into Committee of

#### SUPPLY—MISCELLANEOUS ESTIMATES —CRIMINAL LUNATICS.

(1.) Motion made, and Question proposed—

“That a sum, not exceeding 164,165*l.*, be granted to Her Majesty, to defray the Expense of the Maintenance of Prisoners in County Gaols,

Reformatory Institutions, and Lunatic Asylums, and Expenses of Removal of Convicts, to the 31st day of March, 1855."

Mr. SCHOLEFIELD said, he had been prevented on a former occasion from bringing forward a Motion of which he had given notice—that as a salary was refused to Roman Catholic chaplains, the same measure should be meted out to the chaplains of all other religious denominations. He therefore thought it right to bring it forward on the present occasion, though he was sorry he was obliged to do so on such a limited scale, and in relation to a class of most pitiable objects. He referred to the class of criminal lunatics, for whose religious instruction there was a Vote in this Estimate to the extent of 100*l*. In proposing to reduce the Estimate by this sum he hoped the Committee would not misjudge his motives, but would remember that he wished to test a great principle. The House had already decided by a vote on a former occasion that it would not subsidise Roman Catholic priests. He was not disposed to quarrel with that decision, if the House would now declare its determination to mete out the same justice to all the other sects. But if not, then the Committee would be adopting the principle announced by his hon. Friend the Member for North Warwickshire (Mr. Spooner), that there was no truth out of the pale of the Protestant creed. If that were so, they might deride the absurd claim of the infallibility of the Pope of Rome as long as they pleased, but it seemed to him that they were in fact setting up the same claim on behalf of Protestantism, with this ignoble difference, that the Protestant Pope issued his decrees from Exeter Hall instead of from the Vatican. The Protestants had an unquestioned majority in that House, and all that he asked was, that they should not exercise their power in such a way as to injure the Roman Catholics, or expect from them the services of loyal subjects while they refused to treat them on the same footing of justice and equality that all Her Majesty's subjects were entitled to.

Motion made, and Question proposed,

"That a sum not exceeding 164,065*l*. be granted to Her Majesty, to defray the expense of the maintenance of Prisoners in County Gaols, Reformatory Institutions, and Lunatic Asylums, and Expenses of Removal of Convicts, to the 31st day of March, 1855."

Mr. W. WILLIAMS complained that the Vote was not made out in the same clear and explicit manner as it used to be a few years ago. There was no account

in this Estimate of the value of the labour of prisoners, which ought to have been stated. Then he observed that the items for criminal lunatics in England and in Ireland had been increased from 2,963*l*. to 7,643*l*. He wished for some explanation as to these points.

Mr. FITZROY explained that the increase in the prison estimates referred to by the hon. Member for Lambeth arose out of the increased price of provisions and the increased number of lunatics accommodated and supported in the prisons. With respect to the return of the amount produced by labour in the prisons, if the hon. Member referred to the 15th page of the Estimates he would find it clearly entered that it amounted to no less a sum than 16,226*l*.

Mr. MACARTNEY hoped that the Chancellor of the Exchequer would allow a Committee to be appointed relative to Ireland with respect to these Votes, inasmuch as he considered that country by no means fairly treated in the Estimates, after the promises which had been held out by Sir R. Peel on the repeal of the Corn Laws. Ireland, in fact, upon the clear promise held out to them by that statesman, claimed for the present a Supplemental Vote as to these Estimates, and he could not understand why Government should resist such a measure of justice. He hoped, before he brought forward any Amendment as to these supplies, that Government would fairly and ingenuously consider the question.

Mr. APSLEY PELLATT complained of the increase in the Vote for reformatory institutions, which had been raised from 3,000*l*. in the last year to 5,000*l*. in the present. He also complained that the Estimates were not drawn up in a sufficiently clear manner.

Mr. FITZROY explained that the increase in the Vote for reformatory institutions had arisen from the experiments which the Government was making with regard to these institutions. It was thought desirable that previous to any general measure being taken upon this subject, which might throw the maintenance of the institutions upon the county rates, the experiment should be tested upon a larger scale than had been hitherto done. Some juvenile institutions had been established through private beneficence, or through private and local influence, in various parts of the country, to which it had been thought desirable to send juvenile offenders for the purpose of ascertaining whether the

system therein enforced might not be an improvement on that necessarily employed in the gaols. Hence it was proposed to increase the Vote to the Philanthropic Institution, which was well known from the beneficial results of its discipline, from 3,000*l.* to 4,000*l.*, and 1,000*l.* had been voted to some other reformatory institutions, such as that at Birmingham, Gloucester, and Kingswood, which had been certified as useful and beneficial institutions.

COLONEL GREVILLE said, it was necessary that the principle should now be decided. He thought that if they were to refuse support to any party, they ought not to refuse those who had no property and give it to those who were already richly endowed. The hon. Member for North Warwickshire (Mr. Spooner) had taken it upon him to state to the House what was truth, and what was error. He denied the right of the hon. Member to enter upon that subject at all; but if he were inclined to argue it with him, he should say that there could not be truth in that system which neglected that first of Christian virtues—charity. They never found the Catholics abusing the religion of others, yet the hon. Member lost no opportunity of abusing their religion. He had called it idolatry and blasphemy. He thought such language was a disgrace to the House, and a disgrace to the hon. Gentleman, who ought to remember what Burke said in 1792, that in this country the Roman Catholics were a sect, but in Ireland they were a religion. They had entered into a political Union with a Roman Catholic people, and they were bound to give them the full advantages of that Union; if their consciences would not permit them to do that, they were then bound to dissolve the Union. With respect to these prisons, we ought undoubtedly to deal with Roman Catholics in a fair and manly spirit, and by no means to tamper with the religious faith of any man, whether convict or not. Whatever decision the House might come to, he hoped they would not turn their gaols into proselytising institutions, and that they would refuse to allow their proceedings to be guided by the principles of intolerance and bigotry.

MR. T. CHAMBERS would not argue the question whether there ought to be an established religion, but there was one now established, and instruction in it was provided for all classes at the cost of the State. Criminals confined in gaols could

*Mr. Fitzroy*

only expect the same teaching as was provided for those who had committed no crime. The principle was clear, and he could not adopt the grounds for exception urged the other night by the noble Lord the Secretary of State for the Home Department. If there was to be an exception, it should not be in favour of Roman Catholics only, but ought to be extended to all sects. The Protestant religion was established within the walls of the prison as well as without. But he admitted that the State ought not, because a man was in custody, to take advantage of it as an opportunity for proselytism. The Established religion allowed liberty of conscience to all. When a man entered a prison his name was taken down, and his religious opinions, and any minister he wished was allowed to attend him. An attempt was being made to set up the anomaly of a Roman Catholic Establishment alongside of the Protestant one. He thought such a question as this ought to be brought forward in a formal Resolution, and not on occasion of Votes like that now before them.

SIR JOHN YOUNG said, that the payment of chaplains was not a novelty, although one of the objections urged to the Vote on the last night was, that it was an attempt to introduce into England what had only been established in Ireland. The present Vote was for lunatic asylums, and not for prisons, and the number of Roman Catholics in them was very small. The argument that the Protestant religion, being the religion of the State, was established within the prison as well as without, was a mere play upon words. The unfortunate people for whom this Vote was to provide had not the means of procuring instruction; he implored the House, even if it refused chaplains to convict prisons, not to deny them to lunatic asylums. If hon. Gentlemen would read the Reports of the Commissioners of Lunacy, and see the effect of the visits of the chaplains, they would not incur the great responsibility of denying to these unfortunate creatures the consolations of religion. When they were verging towards sanity, their minds were aroused and their recovery hastened by the visits of the chaplains.

MR. DRUMMOND quite agreed that it must be exceedingly painful to vote against the present grant. It was most unfortunate that this item should have been selected on which to raise a discussion like this; but he was quite ready to support the

Government on either side—either that they should treat all Dissenters from the Church of England alike, and salary all who asked for it, or that they should reject all alike; one thing or the other they must do. It was not fair that Government should go on coming to the House with Votes of this kind, which provoked discussions in the House, pretending here in the House to be opponents of the Roman Catholics, and carrying on negotiations with the Court of Rome to assist the Queen in governing her own subjects. So long as this continued, and until they had got that question fairly out which never had been got out—until it was seen what it was that Lord Clarendon, when Lord Lieutenant of Ireland, really had set on foot with regard to the Court of Rome—these questions would be continually arising. It was the Government blowing hot one day and cold the next—asking the House for a hot vote one day and for a cold one to-morrow—that made all the difficulty in these questions, and Government ought to choose a consistent course either one way or the other.

Mr. PHINN was quite at a loss to understand on what principle the hon. Member for North Warwickshire drew a distinction between the payment of chaplains in gaols in Ireland and in England; for there was an established religion in Ireland equally as in England, and the Queen, by her coronation oath, was bound to support the established religion of both countries. The hon. Member and those who thought with him were constantly talking of the "Protestant Empire of Great Britain." But take the case of Lower Canada, where the religion was the Roman Catholic religion. Would the hon. Member for North Warwickshire contend that Protestant criminals immured in the gaols there should be attended by Roman Catholic chaplains or by none at all? He would ask the same question with regard to the people of India. By taking this particular Vote, and passing over others which involved the same principle, the hon. Member strained at a gnat and swallowed a camel. He (Mr. Phinn) did not think money should be paid for any denomination of religion; but the principle ought not to be applied in an exceptional case like this. When a man was sent to gaol he ceased to be a free agent, and ought not to be denied that spiritual consolation which he might desire. There might be more Roman Catholic prisoners

in want of this spiritual consolation than there were ten years ago. The noble Lord the Home Secretary was right when he said that the Legislature was bound to apply the best means of reformation, and that therefore the access of Roman Catholic convicts to chaplains of their own persuasion ought not to be denied. The argument that might apply to dissent was inapplicable in the case of the Roman Catholic religion; the sacramental ordinances of the two Churches being so antagonistic that it was impossible to ask a Roman Catholic to receive the visits of the Protestant chaplain. He should vote with great pain and difficulty for the proposition of his hon. Friend the Member for Birmingham, having to choose between two evils; but he trusted this might be the last occasion on which a sectarian discussion on such a subject would be revived.

Mr. ADDERLEY denied that those who had supported the Motion of the hon. Member for North Warwickshire on a former evening had involved themselves in the dilemma of either paying the chaplains of all religions, or of paying the chaplains of none. The principle laid down on a former evening was a very clear one, and had been acknowledged by all, namely, that, in all our public institutions, there ought to be a chaplain of the Established Church of the nation; but that, as that Church was a tolerant Church, the wants of those who differed from it should be provided for. In Ireland there was permanently a large majority of prisoners of the Roman Catholic religion, and it was necessary that there should be permanent Roman Catholic chaplains; but the proposition defeated the other night was not founded on any such principle, because it would have affirmed that, in all the gaols of England, whether there was one Roman Catholic prisoner or not, a Roman Catholic chaplain should be provided.

LORD SEYMOUR appealed to the Committee not to strike out this Vote, which was of a purely charitable nature, and was very far from raising the large religious question which had been introduced into the discussion. From his own experience, having been formerly a Commissioner of Lunacy, and having had opportunities of judging of the effect of reformatory treatment on prisoners, he could speak as to the powerful influence which the inculcation of religion had upon such persons; it frequently happened that it was from the early associations of religion that men were

brought back again to the reason that had deserted them. This was a question of a sum of 100*l.* for providing a chaplain for criminal lunatics, and he trusted the Committee would affirm the Vote.

MR. SPOONER quite agreed with the noble Lord that the opportunity was not a very fitting one for discussing the great principle raised by the Amendment of his hon. Friend (Mr. Scholefield). He therefore would not have taken any part in the discussion had he not been called upon to state the principle he acted on the other night, when he moved the rejection of the Vote of 550*l.* for the payment of Roman Catholic chaplains in England. Now, he could not agree in two statements made by his hon. Friend. He did not think it was just or right in any way whatever that a Protestant State should pay for the support of the Roman Catholic religion; and that was the principle which actuated his Motion of the other night. But when he was asked, why act on a different principle with regard to this Vote from that which had influenced him in the case of England, he would say that the Vote for Ireland was already decided by Parliament; and although he objected as strenuously to the principle of that Vote as of this, he did not think it his duty, every time it came before the House, to assert his objections or to arouse opposition. When, however, the principle was endeavoured, for the first time, to be applied to England, he then thought it his duty to take the sense of the Committee with reference to such an application; yet he had no hesitation in saying that in any shape, or under any circumstances, for a Protestant nation to support a Roman Catholic priesthood was an act totally unjustifiable. He believed such a policy to involve a great national sin. He held it to be an abandonment of the high privileges which England enjoyed as a Protestant nation, and that it was fraught with very great danger to the State. He had been accused by hon. Gentlemen of indulging in continual abuse of the Roman Catholic religion; now he meditated no such abuse—he merely stated his own opinion with regard to that religion, and he had a perfect right to do so. He knew many individuals professing the Roman Catholic faith for whom he entertained a great respect; but because he entertained that respect, he was not to be deterred from saying that they were under a very dangerous delusion. But at the same time

*Lord Seymour*

he would remind the House and the noble Lord that the words which he had used upon a late occasion, and which were deemed such very hard ones, were words found in the Articles of the Church of which the noble Lord, who rebuked him for using them, was a member, and that the Sovereign was bound by, and did attest her full consent to, those Articles containing the very words in question. Again, therefore, he would say, although he might be accused of great bigotry for so doing, that it was a great national sin to support the Papal religion. He had ever opposed it, and should ever oppose it. They could not, however, say that he was for depriving Roman Catholics of the comfort of their religion—if, indeed, theirs was a religion; for they had free permission, when members of that faith were in prison, to send to their spiritual advisers; but what he asked was, why should a Protestant nation pay for the support of Popery? The privileges demanded in this matter by Roman Catholics were withheld from the members of every other persuasion except those of the Establishment; and why, therefore, should they concede to Roman Catholics greater privileges than they gave to others? As long as they admitted the principle that it was the duty of the State to provide for the religious education of its subjects, that education must be supplied according to some specified form—according to some specified principle or doctrine, and, consequently, it was the duty of the State to pay chaplains to inculcate those doctrines which it held to be the right ones. Upon that principle he proposed, the other evening, the rejection of the Vote. He believed in that principle; he rejoiced it had been recognised, and he hoped it would long continue to be recognised. The Vote proposed on the former night was a new one—it was an attempt to introduce into England a system which cannot be justified. He had endeavoured to stay the movement, and his efforts, he was happy to say, had succeeded. With regard, however, to the Vote now under discussion, he could not say that his hon. Friend the Member for Birmingham (Mr. Scholefield) had shown his usual good sense in endeavouring to raise so important an issue upon so very doubtful an occasion as the present. It was a Vote which he (Mr. Spooner), under all the circumstances of the case, should support, as he felt it would be wrong and cruel not to do so.

VISCOUNT PALMERSTON said, he could not allow the hon. Gentleman opposite (Mr. Spooner), or the hon. Member for North Staffordshire (Mr. Adderley), to misrepresent the Vote which he had proposed the other evening, without setting them right as to a mistake which they had made. The hon. Gentleman for North Warwickshire had objected to the Vote on the ground that it was entirely a new one. Now, it was no such thing. He himself had explained, and it was explained over and over again by others, that an allowance had been made for years to the Roman Catholic chaplains at Millbank and elsewhere; that that allowance had been made for visits at each prison; and, therefore, that the only novelty involved was, that he proposed to give a fixed payment in all cases, instead of payments dependent upon the number of visits paid at so much per day. Therefore the hon. Gentleman was entirely mistaken in affirming his proposal to be an entire novelty as regarded England. The hon. Member for Staffordshire (Mr. Adderley), however, said that the proposal was for the appointment of a Roman Catholic chaplain to every gaol in the kingdom, whether it contained one prisoner or many. Again, he must say, his proposal was for no such thing, for he could not have done that without entirely changing the law. His proposal, then, was simply confined to three or four Government prisons, where a large number of convicts were confined, and had no reference whatever to the great bulk of the county gaols throughout the country. But with regard to the Vote of the other night, he must say there never was a Vote exciting more painful feelings in his mind than it occasioned, and he could not have believed, had his opinion been asked beforehand, that in the present century, in the present state of the country, considering the general liberality and enlightenment that prevailed upon other subjects—that a Vote such as that could have possibly been rejected. It only seemed to remind him of what passed at the period of the decay of the Eastern empire, when Constantinople was besieged by the enemies of the Christian religion, the Mahometans. At that time the foolish Greeks, instead of uniting to make a common defence, were squabbling amongst themselves—the blue faction with the green faction, and the green with the yellow—as to differences of opinion which had no reference whatever to the great

question of the national independence. And what had they done by their vote of the other night? Why, with the great national enemies—vice, infidelity, crime, and profligacy—not merely thundering at their gates, but actually undermining the ground upon which they stood, instead of joining unitedly to withstand their enemies, they refused the small assistance that would convert these miserable wretches, condemned for their crimes, into useful members of society. Well, but grievous—he was about to use some other expression—grievous as was the opposition to the Vote of the other evening, he must say the opposition to the proposal now before the House seemed to him to far exceed it in the peculiarity of its impolicy and unfairness. His noble Friend (Lord Seymour) had well pointed out the value of religious advice to the unfortunate men, the objects of the present Vote; while in this case the question of religious differences did not apply. The other evening it was Protestant against Catholic—it was the difference between the two creeds that divided the House. But here the Vote applied on behalf of both Protestants and Catholics, and they were presented with the other position, the voluntary principle, and the principle of faith. The hon. and learned Gentleman the Member for Bath (Mr. Phinn) had placed the question upon its proper basis. Supposing the voluntary principle were admitted—supposing it were admitted that every free man was bound to find, at his own cost and charge, such religious instruction as was in conformity with the particular tenets of the religion which he held—still, even in that case, the condition of these men was totally different, for the objects of this Vote were not free; and though they were told that it was in their power to send for a priest, yet he would ask, might not they call for those who would not come? And what right had they to call upon a Protestant or Roman Catholic clergyman to go to Dartmoor Prison from a great distance, or to visit lunatic asylums in Ireland, to afford, without remuneration, that ministration which was so necessary to the lunatic and convict? Why, when they separated these men from the means which they possessed, of enjoying freely whatever religious instruction they wished—and when they admitted that religious instruction was as necessary for them as medical advice—and when it was given upon sanitary and not upon the theological

principles—it was absurd to tell him such persons might send for a priest or clergyman, and to contend whether or no the voluntary principle should obtain. He hoped, therefore, that the House would not endeavour to fight out the theological principle over the bodies of these unfortunate lunatics and convicts; for it would be as inconsistent to do so as to have disputations as to the theories of surgery carried on over the body of the unfortunate man for whose relief and benefit the operation was to be performed. It was cruel in hon. Members to make these unhappy persons the victims of their differences. If they so desired, let them fight them on some great principle, but he entreated the House, for Heaven's sake, and for the sake of commiseration and mercy, to give to these unhappy lunatics that which he would have had them grant to convicts—the religious consolation rendered so necessary by their moral and physical wants.

MR. LUCAS said: Sir, I am sorry to interrupt those Gentlemen who call for a division, but having, in common with many Members on both sides, felt a considerable interest in this question, I hope I may be allowed to say a few words. Sir, I have nothing to say in reply to the appeal of the noble Lord (Viscount Palmerston) as to the impropriety of contesting a principle upon such a vote, for I have the strongest aversion to fighting a principle upon a question of this kind, which concerns the suffering and the afflicted among our fellow-creatures. But those who, like the hon. Member for North Warwickshire, borrow from the noble Lord this argument, should recollect that the same argument applies to the Vote which was negatived the other night. The Catholic criminals who were to be provided with religious instruction by the Vote of 550*l.* are in the same position practically as regards this question, as those criminal lunatics for whom the noble Lord expresses so much compassion. Sir, I have no principle to oppose to this Vote, for, as to the voluntary principle, I think it is impossible to carry it out in the case of persons shut up in prison and excluded from the world for sanitary or judicial purposes. And I wish those who are for carrying it to that extent would take a lesson from America, where the aversion to an Established Church is as strong, and carried quite as far, as even they themselves ought to require. But in the United States they

*Viscount Palmerston*

find that the voluntary principle cannot be carried to the extent to which its advocates here would press it. They have in the United States a Vote of Congress for chaplains in the Army; they have another Vote for chaplains to the Congress itself; and they have Votes in the several States for the State gaols, which answer to such Votes as the present. They do not understand there, nor ought it to be understood here, that the voluntary principle extends to those who are in confinement, and who cannot be called voluntary agents. Sir, the hon. Member for North Warwickshire (Mr. Spooner), and the hon. and learned Member for Hertford (Mr. Chambers), told us that the noble Lord (Viscount Palmerston) pressed for something exceptional in favour of the Catholics. That is a complete misunderstanding. If any case were made out to the noble Lord requiring a grant in favour of Protestant Dissenters, there could be no objection to give it to them as well as to the Catholics, and the proof that it is not an exceptional privilege which is claimed for Catholics is to be found in the fact that there is the same arrangement made for Presbyterian chaplains in those gaols in Ireland which are supported out of the rates. In the county gaols of Ireland you have the arrangement carried out to an extravagant and absurd extent, whether there are Presbyterian prisoners or not. In the course of last summer I was visiting Mullingar Gaol, and looking over the visiting books I saw there for every Sunday an entry that the Rev. Mr. —, Presbyterian minister, visited the gaol for the purpose of religious worship; and when I asked the governor, a Protestant of the most determined kind, how many Presbyterian prisoners there were in the gaol, he said, "not one," and added, that there had not been one for some years. Yet there is a sum of 30*l.* a year allowed to the Presbyterian chaplain, 30*l.* a year for the Established Church chaplain, although the prisoners belonging to the Established Church are, of course, very few—I believe not more than five or six—and then there is most graciously granted to the Catholic chaplain the same amount of 30*l.* a year, although his duties must necessarily be infinitely more onerous. Such is the state of things in Ireland. ["No!"] It may be true, as the hon. Member intimates, that it is not universally the case; but I think it is generally so—and that not with reference to any case of special need—such as some hon. Members

appear to require, not with reference to any considerable number of prisoners, of any particular religious creed, but as a general rule—there is not only a salary for the Church of England chaplain, but for the Presbyterian chaplain and the Roman Catholic chaplain; and even though there be no Presbyterian prisoners at all, the salary is not the less paid and received. Sir, I was glad to find that the hon. Member for North Staffordshire (Mr. Ad-derley) felt it necessary to offer some explanation of his vote the other night. I was glad he had the manliness to do so, for I am persuaded he is only one out of many who are heartily ashamed of the shabby decision which the House came to the other night—a decision, I am sure, adverse to the feelings, and I believe to the opinions, of a very great number of those who were among the majority on that occasion, and which, I am certain, will not tend to raise the character of the House in the judgment of all rational and enlightened men. But, Sir, I wish to bring the question before the noble Lord the Home Secretary in another way, and in a different point of view. The noble Lord will recollect that, from the beginning, in the conversations I have had with him on this subject, I said I did not wish to look on it so much as a question of money as of prison discipline; and that though, by reason of the forms of the House, I might be obliged to raise it on a Vote (it is hardly possible to raise it in any other way), yet that what I wanted was not so much justice in regard to money grants, as justice in regard to an entire change in the arrangement of our gaols. I mean such an alteration in the arrangements of our prisons as that justice could be done to the Catholic prisoners. At this moment justice is not done to them in that respect. The subject is now before the House in a somewhat peculiar position. The majority have decided that there shall be no payment for religious instruction to Catholic prisoners. But they have not decided that there shall not be justice done to Catholic prisoners in regard to the right of receiving religious instruction. On the contrary, the majority on that Vote consisted in a great degree of those who, while adverse to money grants for these purposes, are anxious that justice in every other respect should be done to Catholic prisoners. Now, Sir, I want to bring under the notice of the House and of the noble Lord thus publicly (for I will not make any claim on

behalf of Catholics which I am not prepared to maintain thus openly—as just and reasonable)—I want to impress this upon the House and on the noble Lord—that he is not precluded, at the present moment, from making a just provision for religious instruction to Catholic prisoners, and that the vote the House came to the other night does not at all prevent him from doing so. The noble Lord stated in his speech on a former occasion the principles upon which the arrangements in this respect ought to be made. But, Sir, those principles are not enforced, those arrangements are not carried out at this moment, even in the prisons under the control of the Government. They were not enforced last year. They are still less enforced now. As I understand, the arrangements of some of our prisons are more bigoted and more unjust now than they were when the attention of the noble Lord was first called to the subject. [Mr. FITZROY asked if the hon. Member would name any one?] Take Pentonville for instance. The Protestant chaplain of that prison is an anti-Catholic pamphleteer, who writes pamphlets on “Prison Discipline,” in which he denounces the Pope as “Antichrist,” and who shows, by his published writings, that he is a most unfit person to be chaplain in a prison in which people of opposite religious belief are confined. I refer the noble Lord to this gentleman’s writings. I did not wish to mention any one, but as the hon. Gentleman (Mr. Fitzroy) the Under Secretary of the Home Department asked me to name any prison, I was compelled to do so. But, in fact, I might name all your prisons. The arrangements which exist in all of them fail to secure justice in this respect to the Catholic prisoners. The hon. and learned Member for Hertford (Mr. T. Chambers) said that we had a most perfect toleration, and that no further toleration could be asked than to allow the Catholic prisoners to send for their priests, and to allow the priests to come when so sent for. But the hon. and learned Member is under a complete mistake if he imagines that this is a measure of perfect “toleration.” Sir, the present system of prison discipline for the Catholic prisoners is one of torture, under which they are often compelled to profess themselves Protestants, and to conform to the Protestant worship under positive pains and penalties. The system of discipline is one of strict separation, and at Pentonville, where the

system is carried very far indeed, it is almost one of solitary confinement. Well, on Sunday, when the time for divine service comes round, the Catholic prisoner has this temptation, that he can acquire a relaxation from the severity of that system of confinement if he chooses to abandon the profession of his religion and chooses to go to the Protestant service, to enjoy diversity of scene and that conversation among the prisoners which, in spite of the regulations, they do enjoy when they go into chapel. Thus, under the rigour of solitary confinement, and for the sake of spending in a less irksome manner the time allotted for divine service, Catholic prisoners, who have no real wish to change their religion, and every desire to remain Catholics, are actually compelled by pains and penalties, to go into the Protestant chapel and attend the Protestant service, in order to escape the horror of solitary imprisonment. Now, Sir, every prisoner upon coming in is, or ought to be, truly registered according to his religion, and the noble Lord (Viscount Palmerston), with that frankness and sense of justice which he has always shown on this subject, admitted that what I proposed was right and reasonable, that those who were registered as Catholics should have a right to the attendance of a Catholic priest, and that the Catholic priest should be admitted to them in the same way as the Protestant clergymen are admitted to Protestant prisoners. That is the basis of the arrangement I ask for. There is another question, that of the schoolmasters in the Government prisons; the schoolmaster is the agent and subordinate of the Protestant chaplain; he reports to the clergyman, is under his orders, and assists him in giving religious instruction. The consequence is, that as the schoolmaster is of rather a lower rank in society—if the chaplain is a bigot and seeks to proselytise in the prison—the schoolmaster is a bigot of a worse description, and does the business of proselytism in a baser way. I have in my possession a book given by the schoolmaster at Pentonville to one of the prisoners, a *History of England*, published by the Religious Tract Society, full of the grossest abuse of the Catholic faith, and the most abominable falsehoods—nay, I may add, considering that it was given to a prisoner out of funds supplied partly by Catholics, a book full of the foulest blasphemies. This book was forced on a Catholic prisoner by the Protestant school-

*Mr. Lucas*

master, acting under the instructions of the Protestant chaplain! I ask the noble Lord to redress these grievances. I ask that there may be a Catholic chaplain, paid or unpaid—payment is, in my opinion, a subordinate matter—that there may be a Catholic chaplain in each of these prisons, having a right to go there at all such times as the Protestant chaplains can go to visit the Protestant prisoners, and to visit the Catholic prisoners to give them religious instruction and consolation, and provide the means of religious worship. At the same time, the question of payment is one which must be raised, and which cannot be raised in any form that is pleasing to the House. But while it cannot be raised in a form less agreeable than with respect to these miserable wretches, the criminal lunatics, still it must be raised in all possible forms and ways. And for my part I almost wish the hon. Member for North Warwickshire (Mr. Spooner) may succeed in a few more of his Motions, in order that the question may become hotter, and press more imperatively for decision, and compel the House to settle it in one way or another, and to do justice to all classes, either by paying for all or for none. For myself, I care very little in which way the question may be settled; but of this I am determined, that, distasteful as the subject may be, it shall not be allowed to drop until absolute and complete justice is done to all classes of the community, either on the one principle or the other.

Mr. KIRK said, the hon. Member had fallen into a great mistake as to the number of Presbyterian chaplains receiving stipends for their services in Irish gaols. If he had consulted a return which he had himself moved for and obtained, he would find that there were forty-two gaols in Ireland, and that out of the forty-two, twenty-five were returned as making no payment whatever for Presbyterian chaplains. With regard to the question before the House, he considered the speech of the noble Lord the Home Secretary conclusive.

Mr. HADFIELD said, that, even according to the return alluded to, fifteen Presbyterian chaplains received salaries for their services in gaols. Now, he objected to all such payments; and he assured the Government that, sooner or later, this question would have to be grappled with and settled. For nearly two hours the House had been discussing a question

whether a sum of 100*l.* should be granted—a sum which might have been raised in less time by voluntary contributions. It was only in this way that the question should be settled, and he recommended the Government to turn their attention to it. The people would certainly never consent that taxes, wrung from them all, should be applied to maintain principles in which they did not believe; and he was glad to hear from the hon. Member for Meath that he intended to agitate the subject, believing, as he did, that religion would maintain itself if grants were withheld, which were injurious and prejudicial to all classes.

MR. SIDNEY HERBERT said, the House would, perhaps, allow him to say a few words on this subject, concerned as he was with a department which it materially affected. He had listened to the debate of the other night with great regret, and he believed it had terminated in a way contrary to all rational and Christian principle, and in a way mischievous to the interests of the State; but with regard to the present proposition, he was bound to say, in favour of the hon. Gentleman who had brought it before the House, that it was a clear and logical sequence of the Vote of the other night. If the reduction of the Vote of the other night were just, he did not see why, upon such grounds, the present Vote should be sustained; but in this case the House should specially consider the circumstances under which the Vote was asked, and the consequences which might proceed from it. The hon. Gentleman who had just addressed the House supported the voluntary principle, and considered that the money asked for could be raised by that principle. No doubt, a sum equal to the amount by which it was proposed to reduce the Vote might have been raised in less time than the discussion had occupied. No doubt the voluntary principle had done much, and would do much. He saw what had been done through it by Dissenters, and he knew that most of the influence now possessed by the Church of England had been gained through its adoption of the voluntary principle; but in the present case he asked the House just to consider for one moment upon whom it was to act. One class was that of convicts in prisons, and the other, analogous in respect to their isolation from the rest of the community, was the Army. Under the voluntary principle, everybody who was a customer for religious instruction paid for it;

and the voluntaries did not object to receive money from a person for instruction, not for himself, but for his children. [MR. HADFIELD said, the question was as to the poor.] Money was not received from the poor, but from the rich in favour of the poor. This was a just principle where all men were free agents, and could send for their minister whenever they required him. But men in prison were debarred from such power. To them the State stood *in loco parentis*, and was bound to give them the best religious instruction suitable to their tone and frame of mind. So with the Army. The clergy of the Church of England were admitted to the prison and the regiment; but upon what principle could the same instruction be refused to those who were not members of the Church of England? Upon what principle could they refuse? The hon. Gentleman opposite (Mr. Spooner) would refuse upon a very intelligible principle; but he apprehended that the House was not prepared, although it had agreed with his vote, to adopt his reasons. The hon. Member said, with perfect consistency, in the case of Roman Catholic prisoners and Roman Catholic chaplains to gaols, that their religion was a fable—an idolatrous deceit—[MR. SPOONER: Hear, hear!]  
—and that he would not have it conveyed to these men. The hon. Member said, “Hear, hear!” and therefore quite adopted this phraseology. Well, but the question here was, not between this sect and that sect, but between Christianity and heathenism. The hon. Member said that this was an idolatrous religion—that these people were idolators—and that their faith was “damnable;” but then he said, also, that idolators they should remain—that they should not have access to any vestige of Christian truth, unless they would take it in his shape—that being a shape in which they were bound in honour not to receive it. The voluntary principle was an admirable principle, so long as it dealt with free men—not so when they came to deal with men who were not free agents. If they confined men within stone walls, where they ceased to be free agents, they must take care that religious instruction reached them at the public expense; for, depriving them of their freedom, they assumed this responsibility. But if the principle which was contended for by the hon. Gentleman opposite was a sound principle with respect to prisons, why was it not equally sound with respect to army chaplains? Why did not

the hon. Gentleman move to rescind or to reduce the Vote for army chaplains? Now, in his (Mr. Sidney Herbert's) opinion, the case with respect to the Army—for which he stood there responsible—was not nearly so good a case, according to the hon. Gentleman's (Mr. Spooner's) idea, as the case with respect to the prisons. Our soldiers were, to a great extent, free men. They were obliged to attend to certain duties, and to submit to a certain discipline; but during a considerable portion of the day they were at liberty to go where they liked, to see whom they liked, and to pay for whom they liked; yet they thought it just and right that an Army recruited from different creeds should have the advantage of the attendance of ministers of different denominations, in order to meet its religious wants. How was it, then, he asked if they intended to be consistent—that they did not move to rescind this Vote for army chaplains of different religious denominations, to exclude the Roman Catholic, and exclude the Presbyterian if they pleased, from those ministrations to which they maintained the members of the Church of England were alone entitled? They do not do it, because they dare not do it. Then why should they do it in the case of these prisoners? Why should they give scope to their sectarianism at the expense of these helpless creatures, to whom they were bound by all the holiest ties which Christianity could impose upon them, and refuse to give them all instruction in those first great truths of religion which all of them held in common, because it happened in the case of the Roman Catholic that, in their opinion—and he would frankly say, in his own opinion also—those truths were obscured by the admixture of erroneous doctrine? He could not go that length. He would not add to the injustice which had been done already in the case of these prison Votes, by depriving others likewise of that religious instruction to which they were entitled at their hands. He hoped, therefore, that the House would not sanction this Amendment—not because he agreed with what had taken place before, for he thought the vote which had been come to on the Motion of the hon. Gentleman opposite (Mr. Spooner) the other night was not defensible upon any great principle which could be laid down with respect to prisoners placed under their charge—but he hoped the House would refuse to give its assent to this Amendment, because having voted an injustice to

*Mr. S. Herbert*

one portion of the community was no reason for extending that injustice, and for depriving the majority—for it was not the minority, as had been the case the other night—of that religious instruction which was necessary to the salvation of all men, and which it was especially their duty to give to those who stood towards them in the peculiar relation of those whom they had shut up—as they said—for the purpose of reformation, and had deprived of all those rights and advantages which freedom and society could give.

MR. NAPIER supported the Vote, but wished it to be understood that in doing so he was not affirming any question of principle. In answer to the right hon. Gentleman's question, "Why not move to rescind the Vote in reference to the Army?" he might retort the question, "Why not alter the regulation in reference to the Navy?" which had been repeatedly pressed on the attention of the right hon. Baronet the First Lord of the Admiralty by the hon. Member for Meath. He should have voted with the majority the other night if he had been present, for he considered the principle involved was an important one; at the same time he admitted that it was a difficult question, and the very difference between the two services proved it.

MR. SCHOLEFIELD repeated the expression of his deep regret that he should have been obliged to raise the question, and to take the vote, upon this particular item. Nothing should have induced him to do it, if he had been aware, as he was now told, that there were many other occasions upon which he might have raised the issue upon which he was desirous of taking the opinion of the House.

MR. SPOONER said, that he had not been aware that there was any Vote in the Army Estimates especially for Roman Catholic chaplains. If he remembered rightly, the Vote was for "chaplains" generally, and he believed the right hon. Gentleman had granted no money for Roman Catholic chaplains, unless he had done it lately. However, if he had overlooked it, he was sorry for it; and he would take care not to overlook it on the next occasion.

MR. SIDNEY HERBERT stated, that the Vote for army chaplains (18,000*l.* a year) was divided in the proportion of two-thirds to Protestant chaplains and one-third to Roman Catholic; and

this had been the case ever since the hon. Gentleman had been in Parliament. If the hon. Gentleman meant that he objected to the Vote when the items were separate, but not when they were mixed up together, he hoped his noble Friend (Viscount Palmerston) would take a hint from the Army Estimates next year, and, by wrapping up these items the one in the other, secure the hon. Gentleman's vote.

Mr. SPOONER and Mr. J. O'CONNELL made some observations which were rendered undistinguishable by cries for division.

Question put.

The Committee *divided*:—Ayes 23; Noes 246: Majority 223.

Original Question put, and *agreed to*.

The following Votes were then *agreed to*—

- (2.) 92,765*l.*, Transportation.
- (3.) 342,702*l.*, Convict Establishment.
- (4.) 4,049*l.*, Bermudas.
- (5.) 7,547*l.*, North American Provinces.
- (6.) 9,438*l.*, Indian Department Canada.

House resumed.

House adjourned at One o'clock.

## HOUSE OF COMMONS,

*Tuesday, June 20, 1854.*

MINUTES.] *New Member Sworn*.—For Morpeth, Right Hon. Sir George Grey, Bart.

PUBLIC BILLS.—1<sup>o</sup> Poor Law (Scotland); General Board of Health.

### WRECK AND SALVAGE BILL.

Order for Committee read.

Mr. JAMES MACGREGOR said, it would be convenient if the right hon. Gentleman the President of the Board of Trade would state to the House what course he intended to take with reference to the Bill, and particularly with reference to the third clause, which affected existing officers. The sergeants of the Cinque Ports had important duties to perform in connection with wreck and salvage; in order to discharge these duties more effectually, they had expended large sums of money in the erection of warehouses and for other purposes; and he believed it would be generally admitted that the way in which they had discharged their functions had given much satisfaction. He hoped that no alteration would be made which would affect the interests of those officers, or interfere with the appointments which they held, except on the occurrence of an ordinary vacancy. It was also com-

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plained that the schedule of fees proposed to be appended to the Bill was wholly inadequate with reference to the duties to be performed.

Mr. CARDWELL said, the general object of the Bill was to secure a uniform administration of the law in matters of wreck and salvage throughout the kingdom. In the year 1846 a general consolidation of the law upon this subject had taken place, and the general administration had been very naturally placed in the Board of Admiralty, because the Mercantile Marine Board was not at that time in existence. Now, however, such a Board had been created by Act of Parliament, to which all these matters would be more naturally referred, and it had, therefore, appeared to the First Lord of the Admiralty and to himself that it was right to transfer the general administration of these laws from the Board of Admiralty to the Board of Trade. It was one object of the present Bill to carry out this design by dispensing altogether with the office of Receiver General of the Droits of the Admiralty, which was an unnecessary expense, because the officers of the Mercantile Marine Board were the proper parties to discharge the duties which attached to it. The office, therefore, of Receiver General of the Droits of the Admiralty would be prospectively abolished; and with respect to the receivers throughout the kingdom, who now held their offices at the pleasure of the Receiver General and of the Board of Admiralty, this Bill simply transferred them to the Board of Mercantile Marine. With respect to the sergeants of the Cinque Ports, they would continue to hold their offices upon the same tenure as heretofore. With respect to receivers generally throughout the country, it was not proposed to make any new appointments, the intention being that, as vacancies occurred, the officers of Customs should undertake the duties which the receivers now discharged. From communications which he had had with the principal officers of the Customs, of the Coast Guard, and of the Board of Admiralty, he believed that those duties would be better and more economically performed by the revenue officers than by special receivers appointed for the purpose. That being the general object of the Bill, he had stated how the position of the receivers would be affected—that they would hold their offices upon the same terms as hitherto, with the single exception that,

instead of holding them at the pleasure of the Admiralty, they would hold them at the pleasure of the Board of Trade. With respect to the schedule, it had been represented to him by the receivers that, although the more moderate scale which he had thought it right to propose was just and reasonable in reference to large transactions, there might be many small transactions in which it would not be so. He had pointed out to these parties that, under the fifth clause of the Bill, there would be power given to the Board of Trade to regulate the charges with a due regard to the just claims of the shipping interest and of all parties concerned. He had no objection, however, to make the schedule more elastic, and to adopt an arrangement which had been found to work very satisfactorily in the case of the Cinque Ports, by increasing the rate of percentage, but providing that the total amount of fees should not exceed a certain sum. He would not go over the ground which he had traversed at the commencement of the Session, by again going into an explanation of the general objects of the Bill; but he might state that it was introduced as part of a general system, by which it was hoped to take more effectual security for the preservation of life and property, and the prevention of shipwrecks and disasters on our coasts. The Bill made no alteration whatever in the rights of anybody, and he hoped the House would now consent to go into Committee.

MR. MACARTNEY gave a general approval to the Bill, and bore testimony to the abuses which had arisen under the present system. He disapproved, however, of the proposal to put the duties now discharged by the receivers in the hands of the Custom-house officers; and he also objected to giving the Coast Guard the powers contemplated by this Bill.

SIR GEORGE PECHELL differed from the views of the hon. Member who had last spoken, in reference to the Coast Guard, and thought they would discharge the duties imposed upon them faithfully, without being swayed by considerations of pecuniary interest. He believed the Bill would be received with general approbation.

MR. M'CANN also dissented from the provision for making Custom-house officers receivers. He thought the duties would be best discharged by persons independent of the Customs altogether.

MR. BENTINCK hoped that the right hon. Gentleman would endeavour to make

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some provision for putting an end to the disgraceful practices which too frequently occurred in cases of wreck on various parts of our coast. He was not prepared to augur well of the arrangement for ultimately doing away with the office of receivers of Admiralty droits; but whatever determination might be come to upon that point, he hoped that the suppression of the outrages to which he had referred would be made the object of some special enactment.

MR. V. SCULLY agreed in the necessity of introducing uniformity in the administration of the law; and although he thought good reasons might be given for the objection taken to the third clause by his hon. Friend opposite, the Member for Drogheda (Mr. Macartney), he had no doubt that all these matters had been very fully considered, and he did not, therefore, propose to raise any discussion upon it. He wished, however, to say that that clause appeared to him to contemplate a power in the Board of Trade to get rid immediately of the existing receivers of droits, and to transfer their functions to the Customs. He was quite sure that the right hon. Gentleman had no intention whatever to exercise that power, and that as long as he remained in office the present receivers would be safe. By and by, however, some other person might succeed him who might take a different view of the matter, and who, not being bound by anything that passed in the House which was not made part and parcel of the Bill itself, might exercise the power of immediate dismissal which this clause gave. He thought, therefore, that some words ought to be introduced into the clause which would make this matter perfectly clear. He wished also to call attention to the fact that the fifth section, while it gave the Board of Trade power to diminish the fees of the receivers, gave them no power to increase them.

MR. LINDSAY was quite satisfied of the necessity of some alteration of the law, and he thought that the change which would hand this business over to the officers of Customs was a most desirable one. He believed it would be much better managed than it had been hitherto. At the same time, he agreed with much that had been said upon this subject; and although he believed the right hon. Gentleman had no intention whatever of immediately sweeping away the present receivers, he concurred in the propriety of introducing

some provisions which would make it quite clear that they should not be summarily discharged.

MR. VANCE said, the Chamber of Commerce in Dublin gave a general approval to the Bill, with some doubt, however, as to the operation of the third clause. They thought that, where marine boards existed, these duties might be more properly intrusted to them than to Custom-house officers.

MR. HILDYARD suggested that his right hon. Friend should endeavour so to shape the law that outrages on the coast might be dealt with, without having recourse to those very extreme measures which, as the law now stood, were the only means which could be resorted to. At present, if a body of people attacked a wreck, the only mode of repressing the outrage was to cause the Coast Guard to fire upon the wreckers; but that was an extremity which few magistrates would have recourse to.

SIR JOHN TYRELL said, that, as the owner of a manor on the Essex coast, and entitled in that character to any wreck which might be cast upon the shore, and not claimed within a certain time, he could bear testimony to the delay and expense which were occasioned by the existing machinery, and to the necessity of further legislation on the subject. The Bill known as Mr. Milner Gibson's Bill operated so expensively, that in cases of dispute substantial justice could not be obtained. The great practical want was a tribunal to interfere and settle questions that might arise.

MR. HORSFALL gave his entire approval to the Bill, and said, there was a great advantage in transferring the duties hitherto discharged by the receivers to the officers of the Board of Customs. The mercantile community had the greatest interest in supporting the Bill, inasmuch as it reduced the charges from one to five per cent.

MR. CAYLEY pressed the right hon. Gentleman the President of the Board of Trade, to state what he intended to do with the existing occupiers of the office of receiver; did he mean to absorb them summarily, or only as vacancies occurred?

House in Committee; Mr. BOUVIER in the Chair.

MR. CARDWELL wished, in the first place, to state to his hon. Friend the Member for Whitehaven (Mr. Hildyard), that in the course of the preparation

of these mercantile measures last winter, nothing had more seriously occupied his attention than those deplorable cases of loss of life and property upon the coasts of this kingdom, which were a scandal to a mercantile country. He had had communications, however, with the Comptroller of the Coast Guard, and with Captain Washington, and with other persons who were eminently qualified to give a practical opinion on the subject, and he trusted that the result of the measures of this year would be to provide much more effectual safeguards against such disasters than those which now existed. With respect to the question put by the hon. Member for North Yorkshire (Mr. Cayley), he had only to repeat what he had already said to the receivers themselves, that by the existing law the receivers held their offices by no fixity of tenure whatever. They held them entirely at the pleasure of two persons—at the pleasure of the Receiver General of Droits, and at the pleasure of the First Lord of the Admiralty, either of whom could absolutely, at any moment, displace them. So far as any alteration was made by this Bill, it was not against the receivers; for, instead of leaving them subject, as at present, to be absolutely removed at the pleasure of either of two persons, it would give that power to one person only. With respect to the declaration of his intention, he must say that he had no intention whatever of summarily displacing the present receivers; and he had said so much to the deputation which he had received; but he felt he should have gone very much beyond his duty, if he had conveyed to them the idea that they held their offices by any more certain tenure than that tenure which the Act of Parliament proscribed, or that the Government was under any moral obligation to retain them. What it was proposed to do was to make a general code of discipline, so that persons in different districts, and particularly foreigners, might know that there was a public officer representing the kingdom of England, to whom, in cases of distress upon our coasts, appeal might be made. They wished, also, to reduce the number of officers, and to lessen the expense, and they thought they might more effectually attain these objects by giving the duties now discharged by the receivers to the officers of Customs than by creating new offices, and giving a large amount of patronage to the Board of Trade. If they had desired to carry the

measure without a due regard for those who had not a vested but a temporary interest, nothing would have been easier than for his right hon. Friend the First Lord of the Admiralty to have exercised his undoubted power in the first instance, and to have dismissed the receivers all at once.

Clauses 1 and 2 were agreed to with verbal amendments.

On Clause 3 being proposed,

Mr. LINDSAY moved the addition of words securing the receivers of the droits from summary dismissal, so long as their duties were properly discharged.

Mr. CARDWELL considered the insertion of the words altogether unnecessary, and believed they were calculated to convey a false impression. His object was that the title of these parties should rest on the Statute of 1846, and he did not intend to create a scintilla of vested interest. He would, however, further consider the clause with reference to that point.

Amendment *negatived*; Clause *agreed to*.

Remaining Clauses were also *agreed to*, and the House resumed.

#### THE WAR WITH RUSSIA—QUESTION.

LORD DUDLEY STUART rose, to ask the noble Lord the President of the Council, whether any information had been received of the intention of Austria to march troops into Servia; and whether he (Lord John Russell) would have any objection to lay on the table the following documents:—The protest addressed by the Servian Government against the occupation of that principality by the forces of Austria; the convention between Austria and the Porte respecting the occupation of Albania by Austrian troops; and the convention lately signed between Austria and Prussia?

LORD JOHN RUSSELL: In answer to my noble Friend, I have to state that we have received no late information of any intention whatever on the part of the Austrian Government to march troops into Servia. Some time ago I stated that the Austrian Government had declared that if it would be of use to the Sultan that they should march troops into Servia, they were ready to do so; but that without a request on the part of the Turkish Government they should adopt such a course only in one of two cases—either in case of the march of Russian troops into Servia, when they would oppose that army; or in case of an insurrection in Servia, which would, in all probability, be an insurrection in favour of Russia, and against Turkey.

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With regard to the papers that the noble Lord had asked for—the protest addressed by the Servian Government to the Porte against the occupation of the principality by the forces of Austria has been received by the Government, and there can be no objection to its presentation, if the noble Lord will move for it. With regard to a convention between Austria and the Porte respecting the occupation of Albania by Austrian troops, the Government have no knowledge of any such convention, and I do not believe that such a convention is in existence. The Austrian Government has proposed to the Porte that, in case it should be thought desirable, Austria would assist in suppressing the insurrection in Albania; but the pashas on the frontier declined any assistance from the Austrian troops, and the Austrian commander did not pass out of his own province. The substance of the convention lately signed between Austria and Prussia has been communicated to the House; but there is an additional article which is in the possession of the Government, and can be presented if my noble Friend thinks proper to move for it.

#### THE CASE OF THE BARON DE BODE.

Mr. MONTAGU CHAMBERS rose to call the attention of the House to certain treaties and conventions between the Governments of France and England in the years 1814, 1815, and 1818, for making compensation to British subjects whose property was confiscated by the French Revolutionary tribunals, and to move the following Resolution—

“That the national good faith requires that the just claims of Baron de Bode, established after protracted investigation, should be satisfied.”

The hon. and learned Gentleman commenced by adverting to the state of the House in which he now rose to bring forward his Motion, which he hoped was an augury of its successful result. The name of the individual on whose behalf he came forward must be well known to all;—but it was not merely on account of the wrongs of the Baron de Bode that he had made this Motion; the case was one which closely touched the honour of Great Britain, and it was that consideration mainly which had induced him to undertake the advocacy of this claim. The treaties to which, according to the terms of his Motion, he was about to call the attention of the House, were the treaties of 1814 and 1815, entered into between England and France, when the Bourbons returned to the Govern-

ment of France. By Article 19 of the treaty of peace, signed on the 30th of May, 1814, the French Government engaged to liquidate and pay all debts which might be found to be owing by them to persons out of their own territory. There was also an additional Article 4, by which provision was made for the satisfaction of all cases of wrongful confiscation of "property, moveable or unmoveable, unduly confiscated" by the Revolutionary Government, belonging to British subjects. The treaty of 1814 was interrupted for a short time; but in 1815 a definitive treaty of peace was concluded, and Convention No. 7 of this treaty set forth again the great desire which France had of completely indemnifying all British subjects whose property had been unduly confiscated by the revolutionary tribunals. By an article of the latter convention provision was made appointing four French Commissioners and four English Commissioners as a mixed Commission, to whose account was carried by the French Government a large guarantee fund of many millions, for the purpose of meeting all claims coming within the meaning of the stipulation. In 1818, when the army of occupation was about to leave France, a new arrangement was come to in reference to the liquidation of these debts due from France to English subjects, and a large sum of money in addition to that already handed over to the mixed Commission was transferred to certain English Commissioners, the English Government undertaking to liquidate all claims that had been made and admitted by the mixed Commission as claims proceeding from English subjects. An Act of Parliament was passed, the 59 Geo. III. c. 31, for the purpose of carrying into effect the convention of 1818, and the English Commissioners acted under that convention and under the Act of Parliament. Between 1815 and 1818 the British and French Commissioners had received certain claims, and amongst them was the claim of Clement Baron de Bode—and he would say that that claim was as solid and valid as the claim of any English gentleman to his estate. The father of Clement de Bode, Charles de Bode, a German, was married in England to Miss Kynnersley, an English lady of considerable property; and in 1777, Clement, the present claimant, was born at Locksley, in Staffordshire, and was baptized at Uttoxeter in the same county. There was no doubt, therefore, that Clement was to all intents and purposes a British subject, and quite as

much so as if both his parents had been British born. His father, Charles Baron de Bode, was an officer in the German regiment of Nassau in the service of France—in which none but Germans served—and that circumstance, therefore, did not alter his character as a German subject. Baron Charles possessed some property in Germany; but in 1788 he purchased a castle and estate, situated in Lower Alsace, which being an ancient German male fief both father and son took a vested interest in it. By the treaty of Munster, however, Lower Alsace was annexed to France, with the express provision that all the German tenures should remain inviolate. In 1791, Baron Charles, dreading the wrath of the revolutionary chiefs, surrendered his estate to his son Clement, in the most solemn and public manner. In 1793 the Baron and his son found it necessary to emigrate from the French territory; on which it was decreed by the French authorities that the estate should be forfeited as having been abandoned. In 1797 the Baron Charles died. For some time doubts were entertained whether the forfeiture of the estates of British emigrants was an undue confiscation within the meaning of the convention. That question, however, had long been settled, and it was allowed that the terms of the conventions included their case. In 1815, Baron Clement returned to France; and then through Count Pozzo di Borgo his claim was submitted to the Duc de Richelieu, then Prime Minister of France. It had been stipulated, however, that only three months from the 24th of November, 1815, should be allowed for claimants for compensation, resident in Europe, to make their claims, while, singularly enough, the British Commissioners were not appointed until the month of December, 1815, and they did not arrive in Paris until the succeeding January; there was, therefore, but a very short period allowed for persons residing in Europe to make their claims. On seeing the claim of the Baron de Bode, the Duc de Richelieu fell into the strange mistake of supposing that the father of the claimant being a German, he could not claim as a British subject; but this error was subsequently corrected by Sir Charles Stuart, the British Ambassador. The mistake caused some delay, and the consequence was that the time had elapsed for the making of claims before that on behalf of the Baron de Bode could be included in the list sent in to the Commissioners. An understanding was, however, come to

between the Duc de Richelieu, the British Ambassador, and the two classes of Commissioners, by which the mistake in question was not permitted to weigh against the claims of the Baron de Bode. Between 1815 and 1818 the Commissioners placed upon the registry some sixteen claims of British subjects, and up to the year 1818 the Baron was under the impression that his claim had been duly registered by the Commissioners. In that year the agreement already stated was made between the two Governments, by which France was relieved from liability, and a very large sum of money was handed over to the British Commissioners for the purpose of satisfying all claims; and that the claim of Baron Clement de Bode was included in the amount, and intended to be liquidated, no doubt could now be entertained. An important document had come to light on the question, showing the purposes to which these funds were applicable. The document in question was a letter from M. Guizot, which was sent in 1847 to the present Baron de Bode, and in it M. Guizot distinctly stated that he had looked through the archives and records of the mixed Commission, and he found it there recorded that between the two sets of Commissioners Baron de Bode's claim had been admitted. Independently of this, in ascertaining to what purposes the funds handed over to the Commissioners were to be applied, it was of the greatest importance to call attention to the fact that there was a misrecital in the Statute of the 59 Geo. III., in reference to what was the real convention between the French and English nations; and if so, that recital could not be quoted against the claim. The convention really ran thus—

“In order to effect the payment and entire extinction as well of the capital as of the interest due to the subjects of His Britannic Majesty, and of which the payment had been claimed by virtue of the additional articles of the treaty of the 12th of November, 1815, there shall be subscribed a certain sum of money.”

So that from this it was evident that the fund was to effect the entire extinction of the claims that had been made—not merely the claims that had been registered. In the Statute, however, it was recited that by the convention only those claims could be dealt with that had been duly registered. This was the first and last legal difficulty which interposed to prevent justice being done in this case—he meant the erroneous recital of the Statute. In 1819 the British Commissioners commenced their duties, and

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they seemed to have fallen into two or three curious errors—one was with respect to the estate in Alsace not being, in point of fact, within the territory of France. They read the claim, and, finding the estate described as an ancient German male fief, they said the Baron de Bode could have no claim, as the estate must have been in Germany, and not in France. They then required documents, muniments of title, and proofs which it was impossible to bring forward, inasmuch as the Baron's castle was sacked at the time of the Revolution, and his muniments of title destroyed. Subsequently, a notice was sent by the secretary to the Commissioners requiring the claimant's solicitor to establish by proof that the property had been forfeited by reason of the Baron de Bode being a British subject. Now, this was not in accordance with the treaty, which purported to give ample indemnity and compensation to all persons who were actually British subjects whose property had been unduly forfeited, without reference to the fact that the property was forfeited on the ground that the owner was a British subject. The Baron went abroad in order to obtain further evidence as to his title, and the application for these proofs was again made by the Commissioners, and also for proof that the cession of the estate by the father Charles to the claimant was, in point of fact, a notorious, open, and *bond fide* cession. Receiving no proof that the property was seized because the claimant was a British subject, the Commissioners gave their award against him. The Baron then appealed to the Privy Council, but, having been told that if he attempted to use further evidence his appeal would be dismissed, he went before the Privy Council without proof that the cession in 1791 was open, notorious, and *bond fide*. The Privy Council confirmed the award of the Commissioners, and a rehearing was then prayed for, which was refused on the ground that the jurisdiction of the Privy Council had departed. He would not fatigue the House by going through all the means which had been resorted to subsequently to obtain redress. The French Government were appealed to, but their answer was prompt and conclusive, that ample funds had been entrusted to the British Commissioners to satisfy this demand. In the year 1827, a large surplus being then in the hands of the Commissioners to the credit of the claimants for compensation, a sum of 250,000*l.* was handed over for the purpose of assisting in the repairs of Buck-

ingham Palace. Baron de Bode's case was brought forward in the House of Commons in the year 1828 by Mr. Michael Angelo Taylor, and a debate ensued; but it was attended with no satisfactory result. The object of the arrangement entered into by the convention was, that the very last farthing of the money handed over to this country should, if necessary, be expended towards satisfying the demands of just claimants; and only after such claims were satisfied, if any balance should remain, might it be devoted to the service of the British public. Subsequently, however, a Commission was established, and another class of claimants, who had not sent in within the prescribed time any requisition, was admitted. That Commission, and those other claimants to whom he referred, were brought forward by some of the most eminent men then in the House, amongst whom were the noble Lord the President of the Council and the late Sir Robert Peel. In 1831 the Commissioners proceeded to adjudicate, and they rejected the claim of Baron de Bode. That Commission was dissolved anterior to the year 1834, having, contrary to the terms of the Convention misappropriated a very large amount of the fund. The Baron was, therefore, obliged to resort to other assistance with the view of bringing his case before Parliament. Serjeant Wilde (the present Lord Truro) undertook this duty, and several times during the Session endeavoured to procure a hearing upon the subject; but that distinguished lawyer failed, from the circumstance of no House being made at one time and the House being counted out at another. The Parliament was subsequently dissolved, and Serjeant Wilde lost his seat. Mr. Matthew Davonport Hill, another eminent lawyer, then took up the case, and succeeded in getting a Committee. That Committee sat, and having extended their inquiry to a new class of claimants, who threw every impediment possible in the way of Baron de Bode, they had not closed their labours at the termination of Parliament. Mr. Warburton in the next Session succeeded in getting a hearing in Parliament, but he also was ultimately unsuccessful in the attainment of his object. The next course taken was one of a different character. As the money had passed into the hands of the Treasury, an application was made to the Court of Queen's Bench for a writ of *mandamus* directed to the Lords of the Treasury, commanding them to pay over the amount of money due by them to the

Baron de Bode. That application was refused, on the ground that the Lords of the Treasury were simply the public servants of the Crown—that they represented the Crown—and that when the Crown issued a writ to the Lords of the Treasury, it was in effect issuing a writ to itself, commanding it to do such and such thing. Serjeant Manning then suggested a course to Baron de Bode in order to obtain justice—namely, the remedy that was known in this country by the title of a petition of right. That step was accordingly taken, and the Crown endorsed upon this petition of right the words, "Let right be done." An inquiry thereupon took place. The Lord Chancellor appointed certain Commissioners. Twenty-four jurors were appointed. Out of these, fourteen appeared and with them five Commissioners of great legal attainments were appointed. Baron de Bode proceeded to state the full particulars of his case. The Crown did not appear to cross-examine any of his witnesses or to raise any objections; but they used their utmost endeavours to discover a blot or a link wanting in the chain of evidence. The jury, however, found most distinctly everything in favour of the claimant. They found that he was a British subject, that he had property in France, that it was confiscated, and that the value of it was upwards of 300,000*l.* They further found that there was remaining in the hands of the Lords of the Treasury between 300,000*l.* and 400,000*l.* that were properly appropriable to the liquidation of his claim. The law officers of the Crown took objections to the finding. They first pleaded a general traverse—that is to say, they denied all the facts found in that inquiry; and then they pleaded the Statute of Limitations—that is to say, that the grievances or cause of complaint had not arisen within six years from that time. Now, the claim certainly arose so far back as 1815, or, at all events, in 1822. The Crown further pleaded that the cause of complaint had not arisen during the reign of Her Most Gracious Majesty. It was true that Her Majesty was not even born when this claim first arose, and she was but an infant in 1822. A trial at bar took place to try the validity of those pleas. That trial lasted four days. The strongest evidence was produced on the part of the claimant, that the cession of the estate to the young Baron, in 1791, was a *bona fide* cession, that it had been witnessed by 300 or 400 persons, and had been accompanied by all the ancient feudal

ceremonies required in the case of such a transfer. The Crown counsel did not call any witnesses; but addressed the jury in support of the pleas; and the result was a finding of all the facts in favour of the Baron de Bode. But the sum of between 300,000*l.* and 400,000*l.*, received by our Government from France to meet such claims, having been paid over from the Treasury into the Bank, and it not being found that it came into the personal possession of the Crown, the decision was, that the claimant had no ground for his claim on petition of right, the assumption on which a petition of right was based being, that the money claimed by the subject came actually into the hands of the Sovereign. A writ of error was then brought into the Exchequer Chamber, when it was alleged, and successfully alleged, by the advisers of the Crown, that the Statute of 59 *Geo. III.* recited that it was necessary that the party should be on the registry of claimants—that Commissioners had been appointed to decide on the claims so registered—that the Commission either had or had not decided, and that the Treasury or the Crown could not be called upon, excepting as a matter of grace and favour, to entertain any claim which had not been duly registered. Thus all this series of failure had arisen from the unfortunate and erroneous recital of the Statute with respect to the necessity of the claim being registered. The result of this proceeding on the part of the Crown was, that the Baron's claim was again defeated. The Baron then took the case to the House of Lords, where it was again argued before the Judges, and in the judgment which they pronounced they stated that the law of the land was rigorous upon the point, and they were, therefore, compelled to confirm the decision of the Court of Exchequer. One of the law Lords who gave that judgment, though as a Judge he was bound to decide against the claimant, yet felt as a man the cruel injustice of the decision; and being convinced of the equity of the claim, Lord Lyndhurst, as soon as he could throw off his character of Judge—that was, in the succeeding Session of Parliament—brought the case before the House of Lords, and vindicated the claim of the Baron de Bode in a speech remarkable for its ability, succinctness, and argumentative power. The noble and learned Lord obtained a Committee, which sat and heard evidence, and drew up an admirable and conclusive Report, which he hoped every hon. Member had read. Nothing, however, was

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done last year, and as it was thought that the question ought to be again brought before the House of Commons, he (Mr. M. Chambers), a private Member, had willingly consented to state the wrongs of the Baron de Bode to the House. The questions usually put, and which showed why this claim had been so long evaded, generally were—what is the amount? how can it be liquidated? and where is the money to come from? There were several large sums of money available for the purpose of payment; but the question was one which sensibly affected the national honour; and with shame he had seen it described in foreign journals as an act of English repudiation. Now, let not the House attribute this reproach to a spirit of hatred to this country, or a wish to find fault with us—

*"Lay not that flattering unction to your soul,  
That not your sin, but my madness speaks:  
It will but skin and film the ulcerous place;  
Whiles rank corruption, mining all within,  
Infects unseen."*

He was told that this novel idea was to be started—that Baron de Bode was not, within the meaning of the convention, a British subject. That point, however, was settled as long ago as 1817, when Sir S. Romilly pronounced his opinion upon it. If, however, they said that the Baron was not a British subject, let them perform an act of common honesty by addressing the French Government upon the subject; and, by saying to them, that, inasmuch as Baron de Bode was not a British subject, they returned to France the money it handed to them to meet the claim, as they felt they were bound in honour and good faith to do so. What, then, were they to do in respect to this claim? The answer was simply, "Do justice." All he asked of them was that they should do justice. He came not there because this was a legal claim. If it were simply a legal claim, the ordinary tribunals of the country would assert and satisfy it. But, as those tribunals were inefficient to meet this case—as there had been unfortunately a legislative mistake committed in respect to it—as every effort had been made ineffectually to correct such mistake—as the demand was acknowledged to be, just by every right-minded man, he submitted to the House that the claimant was fully deserving of their interposition and protection.

Mr. DRUMMOND rose to second the Motion, and observed that, like the hon. and learned Gentleman who had just sat down, he would not argue the question on

legal grounds, inasmuch as every legal point had been fully established before proper tribunals; and, above all, it had been summed up last year by a lawyer of distinguished eminence (Lord Lyndhurst), who seemed to increase in acuteness and perspicuity as much as he increased in years. He (Mr. Drummond) spoke to English gentlemen, and he asserted that the Baron de Bode had had arrayed against him every trick and quibble which legal ingenuity could invent, and the excuse for all this had been, that we had not got the money to pay him. They had not got the money to pay him! And so they pretended, in the face of Europe, that we were obliged to rob a man! They had not the excuse of the French Revolutionists, who had some provocation, and moreover some justice, on their side. They had none. They were not one whit better than the issuers of the Pennsylvanian bonds, or than their new ally when he took the Orleans' property. He was afraid the example was catching—it was a bad thing to keep bad company. By what possible right did they refuse this claim? They piqued themselves upon being very jealous in keeping faith with the public creditor; and well they might, when they had some suspicion that if they did not they might lose something by the bargain. Why did they not keep faith with this public creditor? If they did not, it was in vain to suppose that foreign nations would not speak of them as they had spoken of foreigners who acted in the same way. There was no question whatever that no man of honour in that House in an individual capacity would refuse this claim, and he appealed from lawyers and the law, from one Chancellor of the Exchequer after another, and from one Solicitor General and Attorney General after another, to honest gentlemen of England, to say whether they were not bound to satisfy the claim of the Baron de Bode?

THE ATTORNEY GENERAL said, he must detain the House for a few moments in relation to what had fallen from the hon. Member for West Surrey, and he asserted, in the most emphatic and sincere manner, that, if he really believed this claim to be a just one, he would not stand up and disgrace himself as a gentleman and a lawyer by taking the unworthy course which the hon. Gentleman, with that freedom and carelessness of expression and utter disregard of other people's feelings which so often characterised him, had imputed to all Governments, to all

Attorney Generals, and to all Solicitor Generals whatever. He had entered on the inquiry with respect to the Baron de Bode's claim with every disposition to sympathise with him; but he considered that it was his duty as an officer of the Crown to advise the Government according to the best of his ability and the dictates of his conscience with respect to any claims made upon it; and he said with the most perfect sincerity, that he had satisfied himself, and he believed he should convince the House, that the claim in question had no solid foundation. It rested entirely upon the treaties of Paris in 1814 and 1815, which comprised an entire convention between this country and France. As was well known, the treaty of 1814 became necessary in consequence of the sudden eruption of Napoleon, and that of 1815 arose out of the subsequent political events. Both those treaties were founded upon wrongs which had been done to British subjects in contravention of the treaty of 1786 between England and France, which guaranteed their rights of person and property, and which were violated in the Revolution that commenced in 1793. The House must observe that the persons for whose indemnification the French Government afterwards paid the sum of 3,000,000*l.*—or rather inscribed the sum of 3,000,000*l.* upon the debt book of France—were British subjects whose properties had been confiscated since the 1st January, 1793, in contravention of the 2nd Article of the treaty of commerce of 1786. The treaty of 1786, which was one of commerce and navigation, provided, by the second article, that in the event of any future rupture between the two Governments, British subjects should have the privilege of remaining in France and enjoying their property, subject to the laws, as long as they remained peaceable; and that if the French Government should take umbrage at such persons, in order to remove them they should give them twelve months' notice to enable them to realise their effects. Now, the only question in this case was, whether the Baron de Bode came within the operation of that treaty. It was not whether he was a British subject, but whether he was a British subject within the terms of the treaty. The French Revolutionary Government, in direct violation of the treaty, confiscated by decree the whole of the British property in France; the Baron de Bode was a British subject in this sense—that, by the accident of his birth, he happened to be born in England.

[*Laughter.*] If hon. Members would listen, they would find there was no absurdity in what he was saying. The Baron's father, who lived in France, had come to this country, where he married an English wife; he afterwards returned to France, and on a subsequent visit to England his son Clement was born; after his birth the father and son withdrew to their possessions, and settled in Alsace. It had been assumed, too hastily, that, because the treaty provided an indemnity for the loss occasioned to British subjects by the confiscation of their property, this gentleman was therefore entitled to that compensation under the treaty of 1786; but on looking to the treaty it would be seen that it did not refer simply to the property of British subjects confiscated in France, but to property of British subjects that was confiscated in violation of the treaty of 1786. Now, it was perfectly clear that the property in question was not confiscated on account of its belonging to a British subject, but because the Baron had controverted the laws of France. If the Baron de Bode, owing allegiance to the French Government, did anything contravening the law of the State, his property became subject to the consequences which all property is subject to under any Government. In the year 1793, the then Government of France passed a decree prohibiting emigration, because it was found that the nobles of France were rapidly emigrating to form an alliance with Austria—a Power which was then preparing to invade France—and forming an army against the existing Government. It was declared that any persons emigrating from France without leave should be held to be traitors to the State, and their property should be confiscated; and the Baron de Bode's property was confiscated, not in violation of the treaty of 1786, but as a French subject who had violated that law of France. The French law claimed the children of subjects born abroad as French subjects; the son was by the law of France a French subject—he owed allegiance to the French Government, and holding a fief within the dominions of France, was liable to all the incidents that attached to the possession of that property. With respect to the transfer that had taken place between the father and son, it was colourable, and a fraud upon the then existing Government of France, and so it had been held by Lord Stowell. In the year 1791, Charles de Bode saw the storm was gathering, and being desirous of protecting his family

*The Attorney General*

estates against the risk of confiscation, he made them over to his son, in order that the son might allege his minority and youthful age in answer to any waver of right he might be compelled to make, and the cession was accordingly made. But, even if it were valid and not a colourable transaction, and although he was an English subject, he took the property ceded to him subject to all the incidents of tenure that attached to property according to the laws which the existing Government of France might pass, and he could not get rid of that objection unless he could bring himself within this treaty of 1786. The Baron de Bode brought his case before the Commissioners, by whom it was fully investigated, but they were not satisfied with regard to the two most important points of which proof was requisite—first, that there had been a *bond fide* cession of the property from the first Baron de Bode to the claimant; and secondly, that the property had been confiscated as the property of a British subject. Exception had been taken to the proceedings of the Commissioners on the ground that they had acted arbitrarily, hastily, and indiscreetly, but he thought, as the Commissioners were appointed by the English and French Governments, it must be assumed that their proceedings were regular and proper. If their proceedings had not been regular, the proper course would have been to appeal to the Privy Council on that ground; but this course was not taken, and the Baron de Bode appealed to the Privy Council upon the merits of the case. The decision of the Privy Council was adverse to the Baron de Bode; and the Government in such a case had no alternative, but were bound to proceed in conformity with the Act of Parliament which prescribed the mode in which claims of this nature should be determined. The Baron de Bode, however, was not satisfied, and at the suggestion of a very able and learned gentleman, he presented a petition of right to the Crown. The Queen endorsed that petition in the usual form, declaring that “right should be done.” The question was further inquired into, certain facts were found, and the case then came before the Court of Queen's Bench, where it was elaborately argued by the most able counsel on both sides, and the result was, that the Court decided against the claim of the Baron. The Baron de Bode appealed from the judgment of the Court of Queen's Bench to the Exchequer Chamber, who said, “We will not enter into the question

which it is sought to raise; it is enough for us that the party was bound to make his claim within the terms prescribed by the Act of George III.; he was bound by the decision of the Commissioners, affirmed by the judgment of the Privy Council; and there is no power which, by the law of the land, can grant any redress, even if he were entitled to it." The Baron de Bode then appealed to the House of Lords, who affirmed the judgment of the Queen's Bench, holding that the Baron was not entitled to redress. The case was now brought before that House, with the view, he (the Attorney General) supposed, of inducing some special interference on the part of that branch of the Legislature, by the assignment of a sum of money for the payment of the claim. There seemed to be a mistaken idea, that a considerable portion of the amount appropriated to the payment of these claims remained in the hands of the Government. The fact was that the persons who first established their claims were paid, and there being a surplus, the Government felt themselves bound to let in other claimants, in the payment of whose demands the funds were nearly exhausted. The Baron de Bode said, "You had no right to pay these subsequent claimants; for they did not prefer their claims within the proper time." But the answer to this complaint was, "Neither did you; and if you set up the Statute against these claimants, surely we may plead the provisions of the Statute against you who have sought redress under it, and whose claims have been rejected by competent authority." The question now to be determined was, whether Parliament would consent to any special interference, with the view of satisfying the claim of the Baron de Bode, and he (the Attorney General) must say that it did not seem to him, for the reasons he had mentioned, that there was in this case any moral claim on the part of the Baron upon the British Government. If the property of the Baron de Bode had been confiscated as that of an Englishman, or if the Baron had failed in obtaining redress upon technical grounds, and could show that upon moral grounds he was entitled to consideration at the hands of the Government and of Parliament, it would be a totally different case. But he (the Attorney General) thought that no one who considered the Act of Parliament candidly and impartially could fail to come to the conclusion that the confiscation of the property of the

Baron de Bode did not take place on the ground that he was an Englishman, but on the ground that he had violated the laws of France. They had nothing to do with a question which was not within their jurisdiction; they had nothing to do with the question between the Baron de Bode and the French Government—whether he was right in joining the armies that invaded the French soil, or whether the existing Government of France was justified in defending itself not against foreign enemies only, but against their internal foes. The French Government had passed laws against those Frenchmen who joined the foreign invader; under these laws the Baron's property had been confiscated, and we had nothing to do with the question whether the French Government were right or wrong in the course they took. He (the Attorney General) could not see how the accident of the Baron's having been born in England could give him any moral claim to the consideration of the Government or the Parliament of this country. Parliament might sympathise with the Baron de Bode, but they could not deal with a question which was not within the scope of their jurisdiction. He (the Attorney General) trusted that he had established a clear distinction between such a case as this and the cases intended to be provided for by the Treaty of Paris of 1815; and he must, therefore, oppose the Motion of his hon. and learned Friend.

Mr. BOWYER said, the hon. and learned Attorney General had stated that the Commissioners before whom the claim of the Baron de Bode was heard, stated, in the first place, that they were not satisfied with respect to the validity of the cession from Baron Charles to Baron Clement de Bode, but he believed that the facts stated by his hon. and learned Friend the Member for Greenwich (Mr. M. Chambers) showed clearly that it had been executed with all the requisite legal formalities. Nor had any reason been given which could lead any one to suppose that it was tainted with any illegality or fraud, which did not appear on the face of the deed. Besides, the validity of the cession had been found by two juries. But even supposing that the cession was not valid, seeing that the father had merely a life estate, and that the son had a vested remainder in fee, the confiscation would not the less have deprived him of an estate which he actually had. The hon. and learned Attorney General had also object-

ed that the confiscation was not of the kind contemplated by the treaty; but the highest tribunal for the decision of such cases—the Privy Council—had determined over and over again that confiscations of a similar kind did come within its operation. It was said that the property had not been “unduly” confiscated; but how could there be any confiscation which was not “undue?” The Privy Council had, however, held that mere confiscation was sufficient—that whatever the cause of confiscation might be, the fact of confiscation was sufficient, the object of the fund being to compensate all British subjects for all confiscations of property suffered by British subjects at the hands of the French Government. He contended that the treaty applied to all cases where the property of a British subject was confiscated, and was not limited to the case of his property being confiscated because it was that of a British subject. With respect to the hearing before the Privy Council, that could not be considered as of any authority against the claimant, because the constitution of that tribunal precluded it from entertaining any facts which had not been before the court below, and the Baron de Bode was therefore prevented from bringing forward many facts which were material to his case. The proceeding on the petition of right was decided on a purely technical point; and he could not, therefore, admit that the decision of the Court of Queen’s Bench would at all justify that House in refusing the Baron de Bode that redress to which he was undoubtedly entitled. It was impossible for any lawyer to deny that the Baron de Bode was an English subject; and that being the case, he was as much entitled to any indemnity afforded by the treaty as if his ancestors had lived in England since the days of William the Conqueror. It was said that the Baron de Bode had served against France, and that was the reason that his property was confiscated. There was, however, no evidence to show that this was the fact. His property was clearly confiscated on account of his having emigrated; and he was informed by Serjeant Manning that there were no fewer than eleven cases in which the Privy Council had decided that cases of confiscation on account of emigration came within the operation of the treaty. He hoped, therefore, that, guided by a sense of justice, the House would assent to the Motion.

*Mr. Bowyer*

Mr. WILKINSON thought that a clearer case was never brought before the House. It was impossible not to regard the cession from the Baron Charles to the Baron Clement de Bode as a colourable transaction; and it was manifest that the property was not confiscated because it was that of a British subject, but specifically because he was a French subject who had violated French laws; and therefore the claimant was not one of the persons entitled to indemnity under the Treaty of Paris. He should, therefore, vote against the Motion.

SIR FREDERIC THESIGER thought that those who were opposed to the claim of the Baron de Bode had great reason to complain of the motives which had been imputed to them on the present occasion. The hon. Member for West Surrey (Mr. Drummond) said that he appealed from law and the lawyers, and from Chancellors of the Exchequer to men of honour and of common honesty. Now, he must tell his hon. Friend that he was very much in the habit of scattering aspersions at random in his speeches, and that he (Sir F. Thesiger) could not allow him, on every occasion when he addressed the House, to engross all the honour and honesty to himself. He was as much alive to a sense of honour and of justice as was that hon. Member; and if he believed that the Baron de Bode had any ground for the claim which he made, he most unquestionably would not lift his voice against him on that occasion. Having that sense of honour, that sense of justice and humanity, and having, moreover, with the most earnest consideration, weighed every feature in the case of the Baron de Bode, he would repeat on the present occasion what he had before emphatically declared, that, in his full belief and conviction, the Baron de Bode had no title to any demand whatever on the British Government. The first point which arose in the consideration of this question was, not whether the Baron de Bode was a British subject, but whether he was a British subject within the terms of the Treaty of Paris. That he was a British subject in one sense, no one denied. He was accidentally born on the English soil, and that circumstance, quite irrespective of his mother being an Englishwoman (which was wholly immaterial), would, had he remained in this country, have entitled him to all the privileges of a British subject. But he was taken by his parents back to the country from

which his family sprung. At that time his father, the Baron Charles de Bode, had no property in Alsace, but in 1788 he purchased a fief held of the Archbishop of Cologne, and thus undoubtedly became lord of a fief in that province. Then the Baron Clement de Bode resided with his parents, being to all intents and purposes a subject of France, and having territorial duties and obligations towards the country to which he belonged. It appeared that by the Treaty of Westphalia the rights of the feudal superiors of Alsace were preserved. It is further contended that the Constituent Assembly had no right to abolish these feudal privileges. Now, even if that were so, it might be a matter for complaint with the contracting Powers; but it was perfectly clear that no treaty could prevent a Government of a country from enacting laws to bind its own subjects. But take it either way. If the land were feudal, then the Baron de Bode could not transfer his lordship to a minor—at all events, without the consent of his feudal superior; and there was no evidence that the Archbishop of Cologne had given his consent to the cession. If the land were allodial, then, he asked, where was the proof of the validity of the cession? There was no documentary proof of it in existence. But it was said the revolutionary army had entered the house of Sultz, and had destroyed or dispersed all the muniments. It was, however, a remarkable thing that the original investiture of the Baron Charles de Bode in the fief and the original account of the profits had been preserved—that the proof of the cession had alone disappeared. There did not appear even to have been any one who acted for the minor as his guardian in the matter of the cession, and the profits of the land continued to be received by the father as the guardian of his son. Was it possible, then, to come to any other conclusion than that the cession was a colourable one, morally justifiable perhaps under the circumstances, but done to evade the law? In 1793, the Baron and his son took refuge in the Austrian lines—he joined the Austrian army, which was pretty conclusive proof that he appeared in hostile array against his country. Under these circumstances, the Government of France confiscated the lordship of Sultz, treating it as the property of Baron Charles de Bode, and holding the cession as invalid. The question was, did they confiscate it in any sense as British property?

If they did not, then it was clear that under the treaty Baron Clement de Bode could have no claim. He hardly thought any one would be bold enough to say that the cession to a minor had been made, because that minor happened to be a British subject, and that he might therefore be entitled to the protection of the British Government. But whether or no, it was clear that the convention of 1814 and 1815 was founded upon the Treaty of Versailles, agreed to in 1786. But could any one suppose that that treaty was intended to include persons in the situation of the Baron de Bode? It was most evident that it was only intended to cover the property of persons who might be temporarily residing in France for business or for pleasure, not of persons who were lords of territory in the dominion of France, and which territory they could never claim to hold in their character of British subjects. It was evident to demonstration that this property had always been regarded as French property, that it was not confiscated as British property, and was never considered as property held by a British subject. But now, what was the history of this case? The claim depended entirely upon the Act of Parliament. If the claimant did not comply with the terms of the Act, he had no right to make a claim. Now, look at the consideration which had throughout been shown to the Baron de Bode. He was clearly out of time in making his application. If it had been intended to throw out this case on grounds of trick or chicanery, as had been alleged, he would have been told at once that he was too late in preferring his claim, and there would have been an end of the case. But the Commissioners appointed by the Act agreed to waive that objection, and to enter into an examination of the case. But, on examination, they were not satisfied with the proofs of the cession; and without the cession, it was clear that the property had not been confiscated as that of a British subject. They therefore rejected the claim. An appeal was taken to the Privy Council, where that eminent lawyer, Lord Stowell, confirmed the decision of the Commissioners. This decision ought to have been held as final and conclusive. But the Baron de Bode was not so satisfied. He applied to the Court of Queen's Bench for a *mandamus* against the Lords of the Treasury, to compel them to pay the money. Of course, it was ridiculous to suppose that any Judge would

allow a *mandamus* to issue under such circumstances, especially when the claim had been decided before the proper tribunal, and the application was rejected. Having failed there, he made another attempt by a petition of right. He acted under the advice of a learned friend of his, who was distinguished in the House and elsewhere—there by his peculiarly bright appearance, and elsewhere by the great and profound learning he always displayed [Mr. Serjeant Manning, the Queen's Ancient Serjeant]. The petition of right was an almost obsolete proceeding, and he did not wonder, therefore, that his hon. and learned Friend opposite had fallen into some mistakes connected with the proceedings. There was a preliminary inquisition before a jury as to the facts, but that inquisition was *ex parte*. The law officers for the Crown could not appear, and it was not to be wondered at, therefore, that the jury found for the claimant. In traversing this finding, there was, as had been said, a trial at bar, and here he (Sir F. Thesiger) first made his appearance in the case. His hon. and learned Friend opposite (Mr. M. Chambers) had talked much of the solemnity of the proceedings; but he must say he never saw a jury more disposed to find all the pleas for the claimant, and in proof of that he might state that, though the great question was whether the cession was valid, and though there was no question of damage before them, yet the jury found every plea for the claimant, and further found that the damages amounted to 300,000*l*. But on the question of law, the Court of Queen's Bench decided that the confiscation was not an undue confiscation—a decision which was afterwards confirmed in the Court of Error, and finally in the House of Lords. Yet in the face of these decisions, his hon. and learned Friend the Member for Greenwich (Mr. M. Chambers) insisted now that the House ought to come to the conclusion, "that the national good faith required that the just claim of Baron de Bode, established after protracted investigation, should be satisfied." Now he must certainly join issue with his hon. and learned Friend upon the terms he had himself issued. It was because he felt the importance of the subject, and the desirability that the national good faith should be preserved, that he had considered it to be his duty to call the attention of the House to what was, in his opinion, the real state of the case. The objection to the Resolution was, that the

*Sir F. Thesiger*

Baron de Bode was not a British subject within the meaning of the treaty, and, in the case of a claim made by a Mr. Drummond, of a similar description, the decision of the Privy Council had been to that effect. The hon. and learned Member for Dundalk (Mr. Bowyer) had said, that there had been decision after decision, on the part of the Privy Council, that, where the property of a British subject had been confiscated, the reason of that confiscation was quite immaterial as regarded the justice of his claim for compensation; but would he say that there had ever been a decision of the Privy Council, under similar circumstances to those of the Baron de Bode, that the claimant was a British subject? He would defy his hon. and learned Friend, or any lawyer either in that House or out of it, to show any case in which a question arose under circumstances similar to those which distinguished the case of the Baron de Bode, and in which it had been decided that the claimant was included in the terms of the convention. The Baron de Bode was, he might say, only accidentally a British subject—he never intended to own any allegiance to the British Government; but, on the contrary, he had made up his mind to reside on the property of his father when it devolved upon him, and he would most probably have remained there had it not been for the advance of the revolutionary army. Could any one say that such a person was properly included in the terms of the convention? Was his hon. and learned Friend aware that a similar case had already been decided in the Privy Council? He referred to the case of Mr. Drummond, who was a claimant under the very same treaty with the Baron de Bode, and in whose case the Privy Council decided, that though Mr. Drummond was a British subject, yet he was also a subject of France, and that, he and his family having been resident there for a century, it was clear he could not be held to be a British subject within the terms of the treaty. Where, then, was the honour, where was the justice of the case? and why should those who took a view adverse to the claim of the Baron de Bode be denounced as persons who had abandoned all sense of justice and the principles of common honesty? He, for one, was satisfied that this claim was without foundation—that it failed in its very root and origin. It was admitted, indeed, that he had no legal claim; but an appeal was made on moral considerations. He trusted the House

would carefully weigh all the facts he had laid before them, when he was satisfied they would see that there was no foundation whatever for the claim, and that they would negative the Resolution.

MR. T. CHAMBERS said, that the hon. and learned Attorney General had stated that, in order to decide any claim under the convention, it was necessary, as it referred to the treaty of 1786, to refer to that treaty; but the 5th Article, under which the Baron de Bode proposed his claim, had reference to real property, and had no reference to the treaty of 1786. With regard to the statement that Baron de Bode was not a British subject within the meaning of the treaty, he could only say that in the treaty there was no definition of what a British subject was. The highest right of a person to call himself a British subject was that of being a natural-born subject. This had been decided over and over again, and he had only to refer to the Countess of Conway's case; but it was never disputed that the Baron de Bode was a British subject. It did not alter that right to say that he was accidentally a British subject, for in a certain sense they were all accidentally British subjects; and he had been much surprised at hearing the observation, and more particularly at hearing such a view expressed by the hon. and learned Attorney General, for the House must remember how ably that hon. and learned Gentleman had urged the claims of Don Pacifico, although that person was not only not a natural-born British subject, but had only been naturalised on the rock of Gibraltar. And, with regard to the argument of his hon. and learned Friend (Sir F. Theigier), much of it was precluded by the fact that all the circumstances upon which the Baron rested his claim had been held to be proved by competent tribunals, and therefore it was not competent now to import into the case facts contradictory, or in addition to those already proved. It had been contended that the property of the Baron de Bode had not been confiscated as the property of a British subject; but the Privy Council had decided that that was a point of no importance. The Baron de Bode had proved all the facts of his case, and he hoped that the House would assent to the Resolution proposed by the hon. and learned Member for Greenwich.

MR. WALPOLE said, he would state in as few words as possible the reasons which would induce him to vote for the Resolution. Any one who carefully ex-

mined the question and followed it through its intricacies must arrive at one of two conclusions—either that the claimant was an adventurer or pretender who had failed in the prosecution of his suit in the ordinary manner—in which case the claim ought to be rejected as an undue interference with the administration of justice; or that this was a most serious question affecting the honour and credit of the country, and that therefore it ought not to be disposed of by anything like technical objections, or even upon the ground that previous decisions had been given which precluded the House from entering again into the consideration of the subject. For the first time in the whole of these intricate proceedings the objection had been raised—and he believed it to be an untenable objection—that no British subject had a claim to compensation from the funds given by the French Government for the purpose, unless he brought himself within the terms of the convention which referred to the treaty of 1786. Now, that was not the case. Two classes of British subjects were to be indemnified under this convention. One class were to be indemnified in consequence of losses sustained by them in contravention of the commercial treaty of 1786, and these indemnities were to be given in respect of claims for personal property; the other class consisted of those who were entitled to compensation independently of the treaty of 1786, upon the ground that their real property had been unduly confiscated or detained. This latter class of cases was contained in the convention of 1814; the former were added to the class of cases included under the convention of 1814 by a supplemental article to the treaty of 1815, and both were incorporated in the last-mentioned treaty. He begged the House to remember that the whole objection to this Resolution rested upon this distinction. The convention under which the Baron's claim was to be established was that of 1814. It was under the 4th Article of that treaty that the Baron's claim was to be established, if it were to be established at all. But this article was totally distinct from that upon which the hon. and learned Attorney General rested his case. The Attorney General had rested his case upon the assumption that the claim of the Baron was under the treaty of 1786. But that was not so. The claim of the Baron was under the convention of 1814, and the provisions of the convention of 1814 were incorporated into

the definitive treaty of 1815, and they had the same force and effect. Well, appended to the definitive treaty of 1815 were certain conventions; and Article 1, of Convention No. 7, introduced that new class of cases under which British subjects were to be entitled to indemnity who had suffered loss in contravention of the general treaty of 1786. But that did not exclude the parties who claimed under the convention of 1814; for they were equally brought within its provisions. It would be found that Lord Denman had drawn this very distinction. His hon and learned Friend the Attorney General would therefore observe that the whole foundation of this part of his argument entirely failed. Under these circumstances, he (Mr. Walpole) would point out a way in which, in his judgment, the case might be reduced into a very simple and narrow compass. All he would ask the House was this, to carry themselves back to the year 1816, and, not misled by the miscarriages that had taken place subsequently, consider the question whether Baron de Bode was or was not a British subject, entitled in the year 1816 to compensation on account of losses which he sustained during the revolutionary war. Under the treaty of 1814 the persons claiming compensation were bound to make out three things: first, that they were British subjects; secondly, that they had property in France; and thirdly, that that property had been unduly confiscated. Now, he should show the House that in the case of the Baron de Bode every one of these points had been completely established. That the Baron was a British subject, he would not say only in an "accidental" sense; but that he was a British subject for the purpose of giving him all the rights and privileges of that character, nobody could deny. Sir S. Romilly, whose opinion the hon. and learned Member for Greenwich (Mr. M. Chambers) had quoted, expressly said that the condition and the rights of the Baron de Bode were exactly the same as those of a natural-born subject, the son of an English father and mother. What, then, was the meaning of the statement that by the "accident" of his birth, the Baron became a British subject when he could if elected sit in that House, when he could become a Privy Councillor, and when, if he were taken with arms in his hands, fighting against British troops, he might be executed as a traitor, and not treated as an enemy? The second point was, had he

Mr. Walpole

property in France? A distinction had been set up between feudal and allodial property, and doubts had been raised, founded upon this distinction, as to the legality of the cession from the father to the son. The question of the cession had been submitted to a jury, and the jury found, upon the only evidence that could be taken in such a case, namely, that of foreign advocates who knew their own law, that the cession was lawful. The finding was, "We find from the evidence that a cession took place in 1791 from Baron Charles to Baron Clement, and that from the evidence of foreign advocates such cession was valid." He supposed, however, he should be told that the cession was not *bona fide*—that it was fraudulent, and, therefore, that it could not be acted upon in this country. Fraudulent against whom? He understood by the word "fraudulent" a contrivance by means of which the property of one man was taken from him by another; but whose property was taken away in this case? The father had ceded his property to the son; was that a fraud? Had there been any fraud against the French Government? The French Government was deprived of nothing. No one was defrauded by the cession, which was merely an arrangement between the father and the son, by which the son's expectant interest had been converted into fee. Lord Stowell had said the transaction was not an improper one. He thought, therefore, that there was nothing in this objection. The third point was, whether the property had been unduly confiscated. It was unquestionably confiscated on the ground that the father had emigrated, and not upon the ground that he was a British subject. But this was no reason why he was not entitled to compensation; for, as Lord Lyndhurst had observed, almost all the cases in which compensation had been given were cases where the claim was made upon the ground that the property had been confiscated by reason of the emigration of the claimant, and not by reason of his being a British subject. Thus the three ingredients which constituted the whole of the case were established—first, that the claimant was a British subject; secondly, that the property, on account of which the claim was made, was property belonging to him; and thirdly, that the property had been unduly confiscated within the terms of the convention of 1814. He would ask, then, what were the objections to the claim? The first

was, that the claim had not been sent in within the proper period. Was it true that the claim was not sent in within the prescribed period? No. In the 24th page of the Report before the House they had an answer to that question from the Attorney General of that day, and of the Queen's Advocate, saying that the claim was sent in in proper time, and was the Crown now to turn round and say, against the opinion of its own law officers, that the claim was not made within the proper period? A second objection was, that the Baron was not entitled to compensation if the property had been confiscated upon any other ground than that he was a British subject. Sir W. Grant and Lord Stowell, however, repeatedly held such an objection to be untenable. Another objection was, that there had been an appeal to the Privy Council. But the Privy Council did not confirm the decision of the Commissioners. The fourth objection was, that the Act of Parliament prescribed that no new evidence should be heard upon the appeal from the decision of the Commissioners, and that the new evidence tendered, to prove that the cession was valid, could not be gone into. If the Privy Council had received that evidence, they could not have refused compensation. The Baron then tried to obtain his rights by *mandamus*; but how was he met? By the statement that the property was in the hands of the Treasury, and that a *mandamus* could not be supported against the Crown. The claimant was prevented from insisting on his claim by means of the *mandamus*, because the property had been taken out of the hands of the Commissioners. A petition of right was at last presented—the whole of the facts were proved at a trial which subsequently took place at bar, the parties being heard for four days, and every portion of the case minutely examined; but right could not be done, because too great a time—more than six years—had elapsed. The three points to be made out were, that the claimant was a British subject, that he had property in France, and that that property had been unduly confiscated. He denied that it was requisite to establish anything more, and he submitted that he had completely proved all these points in the present case, as well as that he had disposed of the only two arguments by which the Attorney General had attempted to meet the claim. Upon what grounds, then, was it to be resisted? Was it resisted because of the

amount? He could not help suspecting that if the amount of the claim had been 30,000*l.* instead of 300,000*l.*, that House would never have heard of it. But that must not preclude the House from doing what they believed to be just. Justice was their first duty. That House was the last tribunal to which any subject could appeal. They must remember that this was not an ordinary contest between party and party; it was a claim made by a single individual against those who held property as trustees for the public. Let not those trustees answer this claim by saying that it had not been made soon enough, or that the cession of the property had not been proved, or that the claimant was not a British subject within the meaning of the convention. He entreated the House to look at the question as a matter of honour and of justice. Let them consider whether this gentleman had sustained a wrong, which, with the information they now possessed, they would have been induced in the year 1816 to redress. Let them not refuse to do that in the year 1854 which they would have done from a sense of justice in 1816. He had taken this case up, not for the purpose of supporting the claim of a friend, for he hardly knew the Baron de Bode, but he had simply felt it his duty to investigate the case when it was put before him at the request of one of the most extraordinary men that ever lived—whose mind was capable of comprehending and analysing the greatest, as well as of disentangling the most complicated subject. It was that noble and learned Lord's request that he should not say one word in Baron de Bode's favour, unless, after a deliberate consideration of the whole circumstances of his case, he should arrive at the conviction that the claim was just. In compliance with Lord Lyndhurst's request, he did investigate the whole matter, and, having done so, he arrived at the conviction that the claim was just, and he therefore would support it to the utmost of his power. He thought the honour of the country, the honour of Parliament, and the honour of the Crown, were concerned in this matter. The honour of the country was concerned, because they had the property in their hands; the honour of Parliament was peculiarly concerned, because it had passed an Act which deprived the claimant of the means of proof by which his claim could now be substantiated; and he also considered that the honour of the Crown was

concerned, since the Crown was the guardian and trustee of this property, for those to whom it should be found to belong; and they should not withhold it for any reasons which he confidently submitted would not be supported if they were brought before a court of justice, and which ought not, therefore, to be supported by that House, as a valid, sufficient, or satisfactory answer to that which he thought was a just demand.

THE CHANCELLOR OF THE EXCHEQUER said, he warmly sympathised in the complimentary reference made by his right hon. Friend to the distinguished man who, arrived at years beyond the ordinary limit of human life, had applied to the consideration of this case the powers of an intelligence which appeared so keen and bright that no extremity of old age could dim its lustre. His right hon. Friend said, let justice be done. He thought that under ordinary circumstances it was dangerous to urge even these sacred words with respect to questions which might fairly be considered as having been settled long ago; but he was ready to admit that without at all intending to consider this case as a precedent, there were peculiarities in the circumstances out of which it sprang, and in the manner in which it had been treated, which would certainly restrain him from urging any Statute of limitations as a reason why it should not be entertained. This case of intricacy and complexity, such as had rarely been presented even in a court of law, and requiring the utmost efforts of all the skill and experience of the most accomplished lawyers for its solution, was now laid before the representatives of the people, whose time and thoughts were observed by other matters of the weightiest consequence, and yet who were to be invited, not to declare that there were appearances in this case, and presumptions arising on the face of it, which would justify further steps of inquiry, but to come that very night to a peremptory decision that in their opinion these claims were valid and incontrovertible—claims which had been examined by the Commissioners appointed under the convention, which had been pronounced untenable by the Court of Exchequer and the House of Lords—upon claims with respect to which it must at all events be admitted that the opinions of the most eminent men were divided. The Members of that House were asked at once to come to a decision, after listening to the speeches of

*Mr. Walpole*

that evening, which had not been heard by more than a very limited proportion even of the small auditory which he had the honour to address. The right hon. Gentleman rarely indulged in the practice of attributing improper motives to others; but on this occasion he seemed to have done so, when he expressed his belief that the claim was opposed on account of the amount. He could assure his right hon. Friend that if the amount of those claims, instead of reaching the large sum of 400,000*l.*, did not exceed 5*s.*, he should resist them on principle as firmly and strenuously as he did now. His right hon. Friend might believe that Government had no other motive besides the wish of acting fairly by the public, because when the claims were first preferred there was a sum at their command sufficient to satisfy them, had this appeared to be the course pointed out by justice, and had there not existed insuperable objections. His right hon. Friend said the treaty of 1815 established a clear distinction between two classes of persons—the one those whose claims had been admitted under the treaty of 1814 as dating back from the treaty of 1786, the other a new class which came in under the treaty of 1815. He was bound to say that his right hon. Friend appeared to be supported by the opinion of Lord Denman in the assertion that there were two classes of claimants contemplated by the treaty of 1816; but he must confess himself entirely unable to discover any such distinction between the one class and the other. The article of the treaty of 1815 declared that all subjects of His Britannic Majesty having claims on the French Government, who in contravention of the second article of the treaty of commerce of 1786, and under the operation of the decrees of 1793, had suffered by the confiscation and sequestration of their property, should, agreeably to the 4th Article of the treaty of Paris of 1814, be indemnified for the losses they had sustained, either in their own persons or in that of their heirs and assigns. He could not see here any line of demarcation whatever between two different classes. It was perfectly clear that the treaty of 1814 was incorporated with the treaty of 1815; and the article to which his right hon. Friend referred did not bear a trace of the distinctions he had endeavoured to draw. His right hon. Friend justly observed that the claim, being founded on the treaty of 1814, was independent of

any reference to the treaty of 1786. Indeed, it was perfectly clear that the claim could not be rested on the commercial treaty of 1786, inasmuch as the 2nd Article, which alone applied to the case, provided that such claimants only should have redress who behaved peaceably, and who committed no offence against the laws and ordinances of France. But it was amongst the facts conceded in the present case, that the Baron de Bode and his father did commit an offence against the laws and ordinances in force there, because emigration was constituted an offence by the decrees passed by the *de facto* Government, and emigrants incurred the penalty of forfeiture of property. It was admitted, therefore, that the case could not be rested on the treaty of 1786. Were they there to deny the validity of the acts of the *de facto* Government of France? He apprehended that was no business of theirs. In the present case it was not pretended that the House of Commons was in a condition to question the acts of the Government of France. He put it to the House that this confiscation, as it was called—though he thought forfeiture would be a better word—that this forfeiture of property, though it might have been a violent and unjust act, was an act that took place strictly according to law, and being an act strictly according to law, it was not an illegal confiscation. In the case of Drummond, whose estates had been confiscated like those of the family of the Baron de Bode, the Judicial Committee of the Privy Council, on an appeal, decided that the claimant, although technically a British subject in 1792 and 1789, was also at the same time in form and in substance a French subject, domiciled in France, with all the marks and attributes of a French subject, and that all the acts which had been done by the French Government were done in the exercise of its municipal authority over its own subjects. Those words, “in the exercise of its municipal authority over its own subjects,” contained the whole pith of the case. He challenged any gentleman to get rid of the conclusion that those were acts which were done by the French Government in the exercise of its own municipal authority over its own subjects. They had been told, forsooth, of the finding of a jury—and that, too, a purely *ex parte* finding of a jury—distinctly set up against the authority, the learning, and the judgment of Lord Stowell. The hon. and learned Gentleman the Member for Hertford (Mr. T. Chambers) said

nobody doubted there was an undue confiscation. But for him, he (the Chancellor of the Exchequer) should have been better justified in stating that nobody asserted there was an undue confiscation. The whole of the judgment of Lord Denman, which had been confirmed by the Exchequer Chamber and the House of Lords, proceeded on the doctrine that there had been no undue confiscation, but that the confiscation was an act which the French Government was perfectly competent to do. The parties did not even venture to make the allegation that the property was unduly confiscated—they left it to the Court to draw that inference, and Lord Denman said that the forfeiture must be taken to have been decided on in consequence of the Baron's violation of the law of France. What pretext was there then to call upon the House to re-try this case, when it had been decided, even after an *ex parte* statement, that there had been no undue confiscation? Unless there was an undue confiscation of the property, the whole of the rest of the argument fell to the ground. This was a question of law, and the law having spoken, the question was decided. He thought it was an act of peculiar favour on the part of the House of Commons to entertain this question at all. He had shown the House that the matter of undue confiscation was one which had come solemnly under the highest tribunals of the country, and that they had decided that it was not undue. [Mr. BOWYER: No, no!] When the hon. and learned Gentleman said “No, no,” he was speaking in the teeth of every line of the judgment of Lord Denman. He (the Chancellor of the Exchequer) would not contest the nationality of the Baron de Bode. It was entirely unnecessary for his purpose. He admitted, for the purpose of argument, that the Baron de Bode was an Englishman; but then, if the Baron de Bode was an Englishman, he was something else, because, it might seem a contradiction in terms, being an Englishman in law, the Baron de Bode was a Frenchman in law. Was there any doubt about that? It was an undeniable maxim in French law that the child of a French subject, born abroad, continued a French subject. Under the operation of the French law, the Baron de Bode lost his property, and there was but one way in which he, being an English subject, and being also a French subject, could be exempted from the operation of the French law, and that was, if he had a treaty between France and England to

fall back upon. His (the Chancellor of the Exchequer's) proposition was this, that the person who was both an English and a French subject could not, by virtue of the municipal law of the one country, escape from the municipal law of the other. His hon. Friend the Member for Surrey (Mr. Drummond) had made charges of fraud, deceit, and swindling, and imputations of the basest motives, in this matter, as if he had been scattering flowers upon the heads of hon. Members. He (the Chancellor of the Exchequer) did not regret that habit except for the sake of his hon. Friend himself; and his hon. Friend would do much better if he would consent to prune his always entertaining speeches of the peculiar feature to which he had just alluded. With respect to the case of the Baron de Bode, he (the Chancellor of the Exchequer) had no other wish than that it should be decided strictly according to its merits. They had gone back to the very fountain head of the whole proceeding, and he thought it had been shown that the Baron de Bode was deficient in the first elements of a title to their pecuniary consideration, because there was not the shadow of a ground for stating, unless they were prepared to upset the highest judicial authorities of their own country, that the property of the Baron de Bode was subject to that undue confiscation on which alone he could found a claim against the Treasury of this country.

Mr. MUNTZ said, the question was, who had the money? It appeared to him that the British Government had it, and that they ought to give it up. He could not understand why each successive Government stepped out of its way to support the injustice of their predecessors. Believing that the claim of the Baron de Bode was founded in justice, he should support the Motion.

Mr. J. WILSON said, that the whole of the fund which had been received from the French Government by the English Government had been exhausted in defraying the legitimate purposes for which it had been received, and the question the House had to decide was, whether, under all the circumstances of the case, the House would impose on the country taxation to the amount of 500,000*l.* sterling, for the purpose of discharging the claim under consideration?

Mr. SPOONER said, his opinion on this subject had been completely changed by the debate of that evening. He had pre-

*The Chancellor of the Exchequer*

viously thought the case of the Baron de Bode was one of much injustice; but since listening to the debate, he had come to the conclusion that the Baron de Bode did not come under that class of British subjects entitled to compensation under the treaties to which reference had been made.

Mr. DUNLOP said, he had also come down to the House under the impression that the Baron de Bode was a much injured man; but he was now most thoroughly convinced that the case was altogether without any foundation at all.

Mr. MALINS would not detain the House long. He had no personal object in connection with the case, and took no interest in the Baron de Bode. He had, however, taken the utmost pains to arrive at a just conclusion, and could not arrive at that which his hon. Friend the Member for Warwickshire (Mr. Spooner) had formed. The present and the late Attorney General had declared to the Baron de Bode that he had no foundation for the claim; their arguments were such as might be used for a plea in bar. He could not understand the refinements attempted to be put upon the fact whether the Baron de Bode was not in part a French subject; but the Baron de Bode was, in his opinion, as in that of Sir S. Romilly, a British subject. That was admitted in 1822, as well as in 1817; and he could not understand how it could be denied now.

Mr. MONTAGU CHAMBERS, in replying, denied that Clement de Bode had ever been a French subject, and contended that the property had been unduly confiscated, as it had been decided many times by the Privy Council, that, when it was once established that a claimant was a British subject, and that his property had been confiscated on account of emigration, such a confiscation was an undue one. Sir Samuel Romilly's opinion was, that the Baron was a British subject, and there was not a lawyer of that day who ventured to contend that there was in him anything of the mixed character of a foreign and British subject which would prevent him from putting in his claim. He did put in his claim, and it was acknowledged by the Foreign Commissioners, and no later than 1847, by M. Guizot, in a letter to the Baron de Bode, informing him of the result of certain researches which had been made in the French archives relative to the mixed Commission, stated that one thing appeared to be plain from those researches—that Baron Clement was included in the number

of persons qualified as British subjects to present themselves before the Commission as creditors of the French Government, according to a statement drawn up and signed by the English Commissioners. This at once demolished all the arguments of those who maintained that he was a French subject. As to the fund being duly appropriated or entirely expended, the misapplications, as appeared from authentic returns, were startling and notorious: for instance, 23,000*l.* to Monsieur Ladebat; upwards of 200,000*l.* to the Bordeaux claimants; 68,000*l.* for claims not sanctioned by the Convention; and gratuities to the Commissioners themselves of an additional year's salary after the termination of their duties. In what position, then, would the English nation stand for the future among foreigners when it appeared that the mixed Commission had dealt with the claim of the Baron de Bode, that afterwards, upon a mere mistake in the Statute, he was barred from producing the evidence which was required, and that then the Privy Council gave judgment against him in consequence of the absence of that evidence? With regard to the other judgments which had been given, those in the Queen's Bench went on the ground that, to sustain a petition of right, it was necessary to show that the money had come into the private hands of the Crown, whereas it was actually paid into the Bank of England; and that in the Exchequer, which, however, affirmed that the Baron was a British subject, was based on a strict interpretation of the letter of the Statute 59 *Geo.* III.

Question put.

The House *divided*:—Ayes 67; Noes 82: Majority 15.

The House adjourned at a quarter before One o'clock.

## HOUSE OF COMMONS,

Wednesday, June 21, 1854.

MINUTES.] PUBLIC BILLS.—2° Bankruptcy (Ireland).

### EPISCOPAL AND CAPITULAR ESTATES BILL.

Order for Committee read.

House in Committee.

THE MARQUESS OF BLANDFORD said, he had no intention to deviate from the understanding which had been come to that the Committee should be only *pro*

*formâ* for the purpose of introducing amendments, and that the measure should proceed no further during the present Session. He wished, however, to state shortly the effect of the alterations which he proposed to introduce. It had been proposed, in the first place, that a separate account should be kept of the different estates which would be brought under the management of the Commissioners by this Bill. This, however, had been objected to by the right hon. Gentleman the Member for the University of Cambridge (Mr. Goulburn) as interfering with the principle laid down by Parliament of a "common fund," in which the proceeds of ecclesiastical property should be invested. In order to obviate this objection, he proposed that all the clauses—

THE CHAIRMAN here interposed, and said, he must remind the noble Lord that it was not usual to make a statement when a Bill was in Committee *pro formâ*.

The noble Marquess thereupon resumed his seat, and the Bill passed through Committee.

House resumed.

On the Question that the Bill be recommended that day three months,

THE MARQUESS OF BLANDFORD said, he would avail himself of that opportunity of explaining the nature of his alterations. With respect to the separate management of property, he proposed that all the proceeds of ecclesiastical estates brought within the operation of the Bill should be paid at once into the common fund of the Ecclesiastical Commissioners, and form part of that common fund, and that out of that common fund the incomes of the several dignitaries of the Church should be paid. With respect to the security of those incomes, he proposed that they should be secured upon the whole property of the common fund, whereas in the previous Bill it was proposed that the security should rest upon the separate properties themselves. The clauses by which it was proposed to transfer the management of these transactions to the Estates Commissioners had been struck out, and the clauses relating to local claims had been extended so as to meet not only the cases of those localities in which tithes were situated, but those in which there were any hereditaments whatever. He had taken the opportunity of making this short statement, because, although it was not his intention to proceed any further with the Bill this Session, he should rein-

roduce it without further alteration next year, unless the Government should take the matter up.

Motion agreed to; Bill recommitted for this day three months.

#### CHURCH RATES ABOLITION BILL.

Order for Second Reading read.

Motion made and Question proposed, "That the Bill be now read a second time."

MR. APSLEY PELLATT said, he was at a loss to understand how church rates in England differed from the vestry cess in Ireland, which the force of public opinion had compelled Parliament to repeal. This was no longer a Dissenting question—it was a question of civil politics; and it had risen up to that magnitude that it was impossible to put it down. One-third of the people of England had already relieved themselves by majorities from the payment of these rates, and it was impossible that any measure of mere compromise could be satisfactory to those who had so relieved themselves. Two-thirds of the population were in favour of total abolition, and the pressure of the borough constituencies upon the Legislature must ultimately have its effect. There was nothing in Scripture upon which they could rest the defence of a system which ought to be denounced and annihilated. It was not the function of the State to teach religion, and he believed it was only by means of the voluntary principle that religion could be effectually diffused. Viewing the matter purely in a political light—without any reference to religion—he thought that such a state of things ought no longer to exist. It was against every principle of political justice that a small minority should tyrannise over a majority in this manner. But when the religious element was taken into consideration, there was another reason why this impost should cease. It was an assumption of religious supremacy for the Church of England to require Dissenters to pay towards the support of that Establishment, and it was idle to talk of religious equality and toleration when such a state of things continued. Many cases had come under his consideration showing the injurious working of this system. In one instance a member of the Society of Friends had been put to the expense of 5*l.* 13*s.* 8*d.* to enforce a demand of 16*s.* 8*d.* In another case, which had lately been brought before the House, two persons had been incarcerated and handcuffed for a paltry rate of

1*s.* 8*d.* This was not the way for the Church to make itself beloved or revered by the people of this country, and for the sake not of any particular sect, but of religion itself, he trusted that this Bill would be carried by a large majority.

MR. MURROUGH: Sir, upon the first reading of the Bill of my hon. Friend the Member for the Tower Hamlets it met with hostility from two remarkable opponents: the one, an hon., learned, and able Member of this House, distinguished as a strenuous supporter of ecclesiastical abuses in every varied form which they present, and whom we saw last Session baffled in his ineffectual attempt to fix a stigma upon the Dissenting body, and perpetuate upon the members of the Anglican Church the impost which we are endeavouring to abolish; the other, the noble Lord the President of the Council, who, in a speech in accents of despair, which taught us that the days of church rates are at an end, lamented his abortive attempts to effect a compromise of this much-vexed question, and bewailed the obduracy of that Nonconformist party, whose ill-grounded confidence has so often wafted him to office. But both the hon. and learned Member for Tavistock and the noble Lord have yet to learn that there is a by no means unimportant section of their countrymen in communion with the Church of England, believing in her vitality and confirmed in that belief from the circumstance that she has survived that influence which has destroyed great political combinations, namely, the connection and advocacy of the noble Lord—a party who feel humiliated by the reflection that any portion of the support of their Church should be exacted from reluctant hands, and who regret that the bright orthodoxy of her doctrine should be so far sullied by the impurity of her discipline.

The noble Lord has been compelled to admit that the material support of the Church would be in no wise prejudiced by the operation of this Bill; but he adds that concession gives birth to a demand for concession, and that in case this measure was suffered to become law, other important privileges of the Church would be indefensible. I am willing to grant the last postulate of the noble Lord; but does he suppose for one instant that by effecting the purposes of this Bill those privileges can become more indefensible than they are at present? Is the state of the Church of England such as to inspire Churchmen themselves with enthusiasm on

her behalf? And does the noble Lord think that the lost affections of a people can be regained by the maintenance of an extortion, unjust in principle, and oppressive in execution—that the people of Hampshire will become more attached to the Establishment through the incarceration at Winchester of labourers earning less than nine shillings and sixpence a week, not from unwillingness, but from absolute inability to comply with her demands—or that the Dissenters of Dorsetshire will return more readily to her bosom on account of the chief magistrate of the borough, which I have the honour to represent, having been thrice subjected to distress of his effects on account of his refusal to maintain that which, perhaps, in his conscience, he believes to be an obnoxious heresy?

The reformation of the Church is a question upon which no sincere Churchman would desire a compromise; through a continued system of compromise she has lost not only the respect of the people, but even that ecclesiastical action necessary to her well-being. Local as the most unimportant municipal institution, an Anglican propaganda is unknown. Simony has corrupted the character of her priesthood, and estranged them from cures with whom they have no sympathy, and though, through the munificence of an older Church and the piety of its prelates, they inherit edifices gorgeous in architecture and sublime in contemplation, the moral structure of a nation's mind, which it was their duty to embellish and adorn, has, by them, been utterly disregarded.

The noble Lord speaks of compromise, nothing but compromise. I should have thought that, from the moment the noble Lord placed over the clergy of the see of Hereford a prelate whose orthodoxy they more than suspected, and whose person they somewhat less than despised, he had had enough of compromise in matters ecclesiastical. The noble Lord has not hitherto been fortunate in his compromises. He occupies his present position by virtue of a compromise; and although, perhaps, time may soften, or charity forgive, his desertion, for the cause of expediency, of those great principles of progress which once rendered his name dear to his countrymen, I tell him that, by paltering with matters such as these, he so deeply perils his reputation that, forgetting the bright promise of his earlier life in the wavering and uncertain shadows of his political present, his biography will form a calamitous page in his

country's history, in which he shall be remembered as a Minister of such infirmity of purpose that he could neither oppose with dignity nor advocate with sincerity.

MR. GOULBURN said, he did not intend to follow the hon. Gentleman that had just resumed his seat through his very discursive statement, but would purpose rather to address himself to the subject under discussion. He had not had the good fortune of being present when the hon. Baronet the Member for the Tower Hamlets (Sir W. Clay) obtained leave to introduce this Bill. He confessed, however, that it was with very great surprise he found that the hon. Gentleman had obtained leave to bring in a Bill which, according to his view, was unjust in principle, and was as inconsistent with political wisdom as it was with Christian charity. He believed if there was one thing more important just now than another for that House to consider it was, how it could best continue to the people of England those advantages of religious instruction which the Constitution had given to them. If they were properly grateful for the blessings they had hitherto enjoyed, they ought to make every effort to retain that system of religious instruction in all its integrity; and they ought to pause ere they seized upon the moment when the country was involved in war to abandon an arrangement from which the people of England had derived so many special advantages. He was not, however, prepared to say that the present law did not require some alteration and amendment; on the contrary, he was satisfied, after the struggle which had been raised throughout the country, that its amendment was a task worthy of any one to undertake. On the other hand, he was not insensible of the difficulties by which the case was surrounded, and if he wanted confirmation of that view he had it in the speeches of the hon. Member for Southwark (Mr. A. Pellatt), who told the House that it was not a question of resistance upon pecuniary grounds—but that the abolition of church rates was the fulcrum by which he wished to establish the principle that in this country the State ought to be dissevered from the Church—and that the proceedings of the House of Commons were to be conducted without any reference to those Christian principles upon which, as a nation, this country had so uniformly relied. But in holding that language he was quite aware that the hon. Gentleman was only re-echoing opinions

held before a Committee of that House some three or four years ago. That Committee was told by a gentleman that this church-rate question was only "a means to an end," and that the question of the abolition was raised because men were persuaded that they thereby were applying themselves to the best means by which their great ultimate object would be attained, namely, the disseverance of religion from the State. Before that Committee, the gentleman who originated the proceedings in the Braintree case, and a large manufacturer, was called as a witness, and when he was asked what would he do for the religious instruction of those in his employment in case of the rates being abolished, his answer practically was, that he would leave them to find it where best they could. So that here was a person who admitted that he had a large number of persons in his employment, and for whom no religious instruction was afforded except that offered by the parish church, who yet felt he was justified, upon the principles and for the reasons urged by hon. Members in this discussion, in neglecting the spiritual welfare of his servants, and withholding from them all opportunity of attending religious worship. Much, however, had been said by the hon. Member for Southwark and others as to the manner in which the consciences of Dissenters were affected by contributing to church rates. Now it was very difficult for any man to prescribe limits as to what were the obligations of conscience. But he must say, to read through the evidence before that Committee, and to take the opinions of gentlemen themselves, one would come most naturally to the conclusion that the obligations of conscience in the matter were very slight indeed. For it was stated by witnesses that this feeling of conscientious objection operated so very differently that if they were deterred on such grounds from contributing to church rates, by an application of the same principle to other rates, it would end, not merely in the overthrow of church rates, but in the overthrow of other rates, which, in the opinion of Dissenters themselves, were essential to carry on the civil administration of the kingdom. Now, let the House observe what the first witness called before the Committee stated. He declared that he really entertained conscientious objections to the payment of church rates. He was then asked "to what sect he belonged," and he said, "I am a Dissenter; but I

*Mr. Goulburn*

do not hold myself attached to any particular sect. Probably I would be a Quaker, but for the 'thee,' the 'thou,' and the 'cont.'" If he (Mr. Goulburn) had been a Member of the Committee he certainly should have been inclined to have asked the witness if it was not very strange that he should be deterred from joining a body whose principles he professed to admire, because there was some want of grammatical accuracy in their language and some curious eccentricities in their dress. However, the witness went on to say that, "after all, he believed his objection against the tax was a pocket objection." There was a great deal of other curious evidence on the subject; and amongst the other witnesses there was a most respectable gentleman, a member of the Society of Friends, who told the Committee, in reply to a question whether he did not feel equal objection to the payment of rates which were levied for the purpose of carrying on war—"That, most conscientiously, the principle of his sect was universal peace; but, at the same time, he did not feel any objection to war taxes, because they were merged in the general revenue of the State, but were thence applied to the purposes of war." And he concluded by saying—"But if he were called upon to convey a quantity of military baggage, he should find it impossible, consistently with his principles, to comply with such an order." He thought the House would agree with him that it was quite evident, that if Parliament were to consent to legislate whenever conscientious objections were entertained, it would be quite impossible to meet all the cases that would arise, and that they would run the risk of involving themselves in difficulties quite as great, if not much greater, than those already felt. For example, there were certain sects that undertook to provide for the maintenance of their own poor; and what, therefore, could be more just than for them to come forward, in case the doctrine of hon. Gentlemen were accepted, and say, "Because we maintain our own poor we ought to be exempted from all share in the maintenance of the poor attached to other persuasions?" For himself he confessed he saw no distinction on principle between the man who refused to pay church rates because he entertained conscientious scruples to doing so, and the man who objected to the maintenance of poor who were not his co-religionists. To come to the real question with respect to church rates, and what

would be the effect of their removal, he might be allowed to state that, according to the Dissenters themselves, the poorer classes belonged to the Established Church. Mr. Terry, a respectable solicitor, and himself a Dissenter, told the Committee the truth. He said, in the course of his examination—

“Dissent is the religion of the middle classes. The Church takes the highest and the lowest, the richest and the poorest; we take a medium, so that we have not the excessive poor amongst us.”

So that the church rate was levied in order to give the poor a right of free admission to a place of worship, in order that the poor might have the benefit of religious instruction. Therefore they might rest assured they could not operate more prejudicially for the interests of the very class over whom the Dissenters said they were unable to exercise any useful jurisdiction, than by abolishing a rate which would prevent them from having a free access to religious instruction, and which he, for one, would never consent to deprive them of. However, the hon. Gentleman the Member for Southwark (Mr. A. Pellatt) told the House that there was no provision in the Gospel ordering the payment of church rates. Now what were the two great principles inculcated upon them throughout the whole of the holy writings? Why, the first was, that they were to take care of the temporal interests of the poor, and to provide for them, each according to his ability; while the other great principle was, that they were to preach the Gospel to the poor. Then he would ask them, did they not violate one of the obligations inculcated by the Gospel, by abolishing the only means provided by the State for the religious instruction of the poor, although perhaps it might not expressly enjoin church rates to be paid? Nor could he in his conscience persuade himself that it was desirable for Dissenters to withdraw from the poor the gratuitous instruction afforded to them by the Church of England. He was quite aware, indeed, they had suggested that pew-rents might be made to supply the place of church rates. But let him ask these Gentlemen what did pew-rents imply but the exclusion of the poor from religious worship altogether? Again it was said that the maintenance of religious worship for the poor would in such a case devolve upon the richer members of the Church of England. But that, it should be remembered, was the argument of Gentlemen who opposed the introduction

of the Poor Law. They said, why have a Poor Law at all, when you can place the support of the poor upon the benevolence of the country? But this would have occurred if such a view had been followed, that every niggardly churl who valued his pocket more than his religious obligations would have withheld his subscription, and allowed an increased burden to fall upon those who were not unmindful of the precepts of religion. They could not, therefore, depend upon the continuance of that degree of benevolence which should supersede the necessity of a general rate; and besides it was only just to the charitable members of the community to compel those who were animated by a contrary feeling to contribute towards a duty which was incumbent upon all. He was far from saying that a remedy might not be found for some of the evils which attended the levying of church rates. That those rates were intended to be an obligation upon property there could be no doubt, and the only means by which it had been evaded arose from the uncertainty and complication of the law. No man could render the State greater service than by undertaking the settlement of this question undeterred by those difficulties, and prepared to make some arrangement by which the poor might yet have religious instruction afforded to them. He believed that such a settlement would not be obtained by this Bill, and therefore begged to move that it be read a second time this day six months.

Mr. H. T. LIDDELL said, he begged to second the Motion just made by the right hon. Gentleman the Member for the University of Cambridge (Mr. Goulburn). It certainly could not possibly be expected that he should support the further progress of a measure which unconditionally went to abolish the fabric of the Established Church of this kingdom. He had heard with very great pleasure the speech just delivered to the House, and first of all on account of the manner in which the right hon. Gentleman had disposed of some samples of what were termed conscientious objections to church rates; secondly, he rejoiced to have heard him, because he announced that the difficulties of dealing with this complicated system were such as to demand some effort on the part of the Government of the country to effect their adjustment. Practically it might be held that, as the law had been interpreted, church rates might be withheld by the refusal of the majority of the ratepayers to

vote them; for a judgment had been given by the highest tribunal of the realm which left the minds of the public under that impression. [Mr. R. PHILLIMORE expressed his dissent.] However, if the hon. and learned Gentleman the Member for Tavistock was of a different opinion he was sure the House would be very glad to hear what his interpretation was as to the real state of the law, and such an exposition would greatly assist churchwardens in their efforts to collect these rates. Now it had been stated by an hon. Member on that side of the House—by his noble Friend the Member for King's Lynn (Lord Stanley), on a former occasion, that church rates were repealing themselves, and, therefore, that it was high time that that House should take steps to declare that they should no longer be levied. However, he (Mr. Liddell) was sorry to say he entirely differed from his noble Friend as to such a conclusion, and if he explained to the House the circumstances under which the rate was rejected in Liverpool, perhaps hon. Gentlemen would see that these cases of refusal to pay the rate did not supply as strong an argument for the measure of the hon. Baronet (Sir W. Clay) as was at first sight imagined. But first he would ask, supposing even that church rates were substantially and really refused in certain cases, where large towns were concerned, what became of the 10,000 country parishes where they were still cheerfully paid? and were they, therefore, to see churches going to ruin, and the services of religion inefficiently performed all over the country, on account of the abolition of these rates, because some few instances might be alleged where large communities had refused, by larger or smaller majorities, to levy the rate? Church rates were collected, if not under the Statute law, at least under the old common law of the land, and, therefore, they could not refuse to have them levied without cutting away the resources long since, even in days before the Reformation, furnished for the support of religion. Now, the case of Liverpool, to which allusion had been made, was this—and as it was most important that no mistake should be made in reference to a town so remarkable for its attachment to Protestant principles as Liverpool, he would beg to read to the House a statement which had been forwarded to him by the rector of one of the parishes, the Rev. Mr. Campbell. The statement was as follows—

*Mr. H. T. Liddell*

"The church rate was refused in Liverpool under peculiar circumstances, indicating some indifference, perhaps, on the part of Churchmen, but not indicating any such decided change of mind on the subject as is made to appear. Anciently the parish of Liverpool was a township, in the parish of Walton, and was made a separate parish by 10 & 11 Will. III. c. 10. Two rectors were appointed, and a money payment assigned to them in lieu of ancient church dues, and they were to have parsonage houses and gardens. These were again commuted by 2 Geo. III. c. 66, for a further money payment, and by subsequent Acts in the same reign two other churches were built and money incomes assigned to the ministers. All these money payments were to be paid out of a parochial rate levied on the ratepayers, excluding 5*l.* householders. By 1 & 2 Vict. c. 98, the rectory was consolidated, and after the first vacancy there is only to be one rector, with a payment of 400*l.* per annum and fees, and four curates with 80*l.* a year a piece."

And here he would pause to ask hon. Gentlemen, was not a payment of 400*l.* a year a most modest stipend for any one undertaking the spiritual superintendence of such a community as that of Liverpool. But the rev. gentleman continued—

"These moneys are raised by a parochial rate, and all this is by Statute law. In Liverpool, therefore, there ought always to have been two rates—one, the parochial rate for the maintenance of the clergy under Statute; the other, the ordinary church rate, for the repair of the parish churches and the expenses of public worship. But, for convenience sake, only one rate was laid, and this rate was in practice voluntary, because no parishioner who refused to pay was ever compelled to pay by legal process. This practice, certainly, was neither strictly legal, nor very fair to those who did pay; and therefore last Easter two rates were laid—one of 2*d.* for the parochial rate secured by Statute, and another of 3*d.* for the ordinary church rate. The opponents of the rate took advantage of this proposition, and persuaded the parishioners that they were not fairly treated. They had never paid more than 2*d.*, why should they pay 2½*d.* The reason of this advance was, that there was an arrear of 3,000*l.* for the payment for a new cemetery recently purchased. The parishioners, however, either did not, or did not choose, to understand the reason why there should be two rates, and why any additional rate should be proposed. The opponents were active and well organised. The Church people were not organised, and were, I am afraid, somewhat supine and indifferent as to victory or defeat; for I never can believe for one moment that a community so attached to Protestant principles, and such regular attendants at religious worship, could be influenced by such a sordid motive as that of withholding a rate for the mere object of keeping the money in their own pockets. That, Sir, is an imputation which I will never permit myself to believe for one moment of so high-minded and generous a community. However, out of about 12,000 ratepayers only 2,611 voted—1,037 for, and 1,574 against, the additional rate; and so it was lost."

Now, he was happy to say that, although

the rate had not been levied, no ill feeling had been evoked, while the energies of the Church had been very much developed, and that on a future occasion, having been awakened to a proper sense of duty, the people of Liverpool would carry triumphantly the imposition of the rate, for carry it they could if they pleased. He believed that the principle of church rates was not so unpopular in the larger parishes as to be accounted in a state of oscillation. In conclusion he would only say that he believed he expressed the sentiments of the House generally in declaring that the adjustment of this question was eminently to be desired. And he trusted the noble Lord opposite (Lord J. Russell) would undertake the task, because he thought the noble Lord was impressed, as much as any man in the country, with a conviction that it was necessary to maintain the Established Church, which, ever since the Reformation, had been the mainstay and prop of the religious institutions of the country. He believed that the maintenance of the Established Church was essential for upholding the religious peace of the kingdom; and if the Church were disassociated from the State, such jealousies would spring up amongst the different sects as to endanger the safety of the community at large, and be most detrimental to the interests of true religion. As the representative, then, of a community second to none in the world for its commercial importance and for its attachment to Protestant and Conservative institutions, he cordially seconded the Amendment of his right hon. Friend.

Amendment proposed, to leave out the word "now," and at the end of the Question to add the words "upon this day six months."

MR. E. BALL said, as a Dissenter, he could not refuse to support the Motion for the second reading of the Bill; but at the same time he could assure the right hon. Gentleman opposite (Mr. Goulburn) that in doing so his earnest desire was to allay that bitterness which had so long pervaded the feelings of the different sects throughout the country, and to remove the impediments which stood in the way of their exercising a spirit of Christianity towards each other. He could assure him that he had no wish but for the prosperity of the Church, of which he had never, although a Dissenter, spoken with an adverse feeling, or ever acted with an unfriendly bias. His only object was, that the Church might become more pure, and becoming more

pure, might become more useful. For as the law officers of the Crown had recognised it as the proper interpretation of the existing law that a rate could not be struck without the consent of a majority of the ratepayers, it would end in the spectacle of all the larger parishes refusing the rate, and then these could come forward as auxiliaries of the smaller parishes, and aid them to bring about the rejection of the rate. It was his conscientious belief that nothing would consolidate and strengthen the Christian feeling of this country more than the abolition of church rates. Instead of such a measure tending to impair the Church, it would in his opinion, on the contrary, strengthen it. It would be the means of softening the asperities of those who had separated themselves from the Church. He begged to express his gratitude to the noble Lord the Member for King's Lynn (Lord Stanley) for the great courage he had manifested in declaring his opinion against the maintenance of church rates, with the knowledge that they were supported and sustained by so large a party with which he was politically connected. He could not but admire the sagacity of the noble Lord in seeing that this burden must ultimately be removed, and in endeavouring to effect the abolition of those rates in a just and Christian spirit—a question which, if not so treated now, would one day be carried in a spirit by no means so amiable or desirable. He (Mr. Ball) confessed himself to be an humble supporter of the Earl of Derby, who was, he considered, one of the ablest men in the country. He admired the noble Earl now as much as ever he did in his life. Well, what did the Earl of Derby say upon this subject in 1837? The noble Earl said—

"I am ready to acknowledge that church rates as they stand form to Dissenters a serious and substantial grievance."—[3 *Hansard*, xxii. 1036 (April 21, 1834).]

He (Mr. Ball) was really and sincerely Conservative in his opinions, and he believed that those principles were most conducive to the interest and maintenance of this great nation in reference to those great attributes that distinguish it from all other nations. He was exceedingly sorry that, as a Conservative, he should hold opinions on this subject which were distasteful to a great portion of that Conservative party with whom he generally acted. He, however, thought that the adoption of the principle which he contended for upon this question would tend rather to strengthen than to

weaken the general principles of that party. Who were the Dissenters of this kingdom, and what had they done? First of all, they were the founders of one of the grandest and most beautiful systems that had ever gladdened any nation upon earth—they were the founders of the Sunday-school system. There were at present about 300,000 Sunday-school teachers, and 2,000,000 of scholars taught by them, and in every place promoting education. The Dissenters were, therefore, entitled to the attention and consideration of Parliament. They were also the great promoters of Missionary Associations, of Bible Societies, and of Missions to the poor in all countries. But they had another great claim upon the attention of the House, from the facts disclosed in the official Census recently published. By those returns he found that, on the particular Sunday specified, there were 3,110,782 Protestant Dissenters present at their various religious houses of worship; while the number of Church of England persons at their houses of worship was only 2,971,258. There were 249,389 Roman Catholics at worship on the same occasion, and 24,000 belonging to other religious persuasions. The number of the Dissenters attending divine worship, therefore, justified them in their application for the special consideration of this House. The Census Report further stated, that there were in the country 14,014 churches belonging to the established religion; while there were as many as 20,390 Dissenting churches frequented on the Lord's Day. If Dissent, notwithstanding the disadvantages in its way, had increased so much up to the present time, what, he asked, was it likely to increase to in twenty years hence? He believed that it would go on swelling and augmenting in a much greater ratio, and he considered that the true policy of this country was to use its mighty power in removing all causes of contention and heartburning, and of blending up harmoniously, with the Church of England, the national feelings of all portions of the people. But it was alleged by some persons that, if church rates were abolished, the people would not be able to build or repair the churches in villages. Let him ask them how was it that, in every village, they found at present either a school or a chapel? He would remind them of the number of churches that were built upon the voluntary principle, and of the fact that 1,500,000*l.* was paid to those who occupied their pulpits.

*Mr. E. Ball*

There was an immense revenue for the maintenance of the churches belonging to the established religion of the country, and yet some of the followers of that Church said that, if they took away church rates, those places of worship would soon become dilapidated. Now, he did not believe anything of the kind. And, if he did believe it, it would only be upon the conviction that the Dissenters cared much more for religious worship than Churchmen—that they communicated more instruction to the poor—that they promoted, in a greater degree, the glory of God, and voluntarily contributed more towards the building of places of divine worship than the members of the Established Church, with all the means and appliances afforded them by the State. Wherever church rates were prevented and forbidden, there was found no difficulty whatever in raising sufficient funds for the maintenance and repair of churches. They must, therefore, make up their minds to abolish church rates, or be prepared for perpetual strife and ill-will. Nothing embittered strife so much as a difference in religion. There was no strife which they should avoid more than religious strife, because nothing was more inconsistent with the principles of one common creed. For the sake of religion generally, he called upon them to give up this little church claim—a claim which, by the decision of lawyers, was proved to be very questionable. He believed that there were many men who, in supporting the continuance of this system of church rates, were influenced by the purest principles, and acted from what they considered to be a strict sense of duty. Such a sense of duty influenced Paul when on his road to Damascus. He recollected reading of an observation made not in Westminster Abbey, but in Westminster Chapel, not by the Bishop of Westminster, but a bishop in Westminster (Rev. Samuel Martin), in the course of a public lecture—

"Let it be remembered that Paul acted from a sense of duty when he did many things contrary to Jesus of Nazareth."

The lecturer added—

"It was from a sense of duty that Sambo flogged Uncle Tom to death, and from the same sense of duty that Tom prayed for his murderers. The question then arises, duty to whom? duty to what? Whence comes this sense of duty, and how far is it to be trusted? We believe that a Christian may do a more unlawful act from a sense of duty than the most ignorant and depraved of mankind."

Now, he (Mr. Ball) concurred most cor-

dially with those sentiments. He believed that although many persons were found to support the principle of church rates from their strict sense of duty, yet at the same time he was of opinion that they tended to subvert the principles inculcated by the Great Founder of Christianity, when He told them to love one another, and to be influenced by Christian charity in all things.

MR. ROBERT PHILLIMORE said, that many of the arguments used by the supporters of the Bill, in the course of the discussion, were, in his opinion, irrelevant to the subject. In spite of the repeated discussions this subject had undergone, there were still many persons but imperfectly acquainted with the state of the law in relation to it. The hon. Gentleman who spoke last seemed to think that the decision of the House of Lords had placed it beyond doubt that the repairs and maintenance of a parish church could not legally be enforced in opposition to the vote of a majority of the vestry. He (Mr. R. Phillimore) denied that the law had been so laid down, and Mr. Baron Parke on the Braintree case distinctly and emphatically declared that the decision given upon that case did not alter the legal obligation upon the parishioners to maintain and repair the parish church. Lord Truro subsequently stated, when the case was before the House of Lords, that some of the points most material to the decision were not in question, inasmuch as it was admitted that the parishioners of every parish were under an imperative legal obligation to provide for the necessary repairs of the church, and for the expenses incidental to public worship. Could it, then, be contended that, the House of Lords having declared that there was an imperative legal obligation, the law gave no means of putting that legal obligation in force? Did the highest tribunal in the country mean to enunciate an unmeaning and ridiculous proposition of law? He did not pretend to offer a positive opinion as to how the law was to be carried into effect, but certainly no legal obligation could exist without a legal remedy. He denied the assertion of the hon. Member for the Tower Hamlets (Sir W. Clay) and other hon. Gentlemen, that since the decision upon the Braintree case no church rates to any considerable extent had been made in the country, and hardly any at all in large and populous towns. From two returns which he had recently obtained, he found that in the archdeaconry of Middlesex and London alone no less than fifty-

nine church rates had been made, in many cases without opposition, since the date of the Braintree case, and they were in the most populous places, as, for instance, in Greenwich. There was one other point to which he was desirous of calling attention. Hon. Members called upon this House to lay down the principle that persons were to be relieved from their contribution to the national Church upon the ground of their conscientious dislike to the doctrines of that Church. Certainly he had always understood that the main argument urged by the Dissenters for their exemption was, that their dislike was founded upon their conscientious objections to support a Church the doctrines of which they did not approve, and the services of which they did not attend; but if this rule were laid down in England, in what manner was the adjoining country of Scotland to be dealt with? A principle of conscientious objection good upon the south, would not be bad upon the north of the Tweed. The law of Scotland upon this subject was a law which the Dissenters in this country would think tyrannical and abominable. In Scotland, if upon application the heritors refused to make a church rate, and to rebuild a church when it had fallen down, the Presbyters had the power of compelling them to make those rates and to rebuild churches, notwithstanding the difference of their doctrines and creeds. Indeed, it appeared from a work upon the subject by the hon. Member for Greenock (Mr. Dunlop), that if the Presbytery found a new church was wanted, they were entitled to determine what amount of accommodation should be afforded, and, in estimating the population for which church accommodation might be required, Dissenters were included as well as members of the Established Church, because they refused to recognise the legal existence of Dissenters. He had no doubt that the Scotch Presbyterian Members who so earnestly supported this Bill would, upon their own principles, with equal correctness, advocate the exemption of Roman Catholic, Episcopalian, and Free Church Dissenters in Scotland; but then the Bill ought to extend to Scotland, whereas the mover had carefully provided that it should not do so. To all who were members of the Established Church, the law relating to a church rate had much to recommend it. There was the antiquity and the equality of the imposition; and the manner of voting it, it being a self-imposed tax by a majority of the

parishioners; but, inasmuch as a very different state of things existed now from the time when church rates first became law, he thought that something ought to be done in the way of a settlement of the question. He would repeat the vote he had given last year upon the subject. He would do his utmost to relieve Dissenters from all payment of church rates in this country, because, while he admitted the existence of a legal obligation on all to contribute to the repairs of the churches, he nevertheless could not shut his eyes to the fact that the Dissenters had an equitable title to be relieved from the burden. If this measure proposed to relieve Dissenters exclusively from all payment of church rates, he would give it his warmest support; but he objected to the present Bill because it would not only relieve Dissenters, but Churchmen themselves, from the payment of those rates. He contended that those who used the Church had a right to pay those rates. No man was more anxious than himself that this fertile source of strife and contention should be removed, and whenever a measure was proposed that would relieve Dissenters alone from the burden he would be prepared to give it his hearty support.

Mr. HORSMAN said, that, on the present occasion, they approached this question under great advantage, inasmuch as there was a general acknowledgment on all sides that the system of church rates required improvement. If it were not admitted by all that they were a great anomaly and grievance, it was at least admitted by all, not only that the law in respect to them was in such a condition as to require some more satisfactory settlement of the matter, but that the time was come when it was the duty of the Government to meet practically the evils of the question. The Government, however, did not seem to think that they could deal with the question in such a manner, and with such a prospect of success, as would justify them in giving a promise to introduce a measure into Parliament upon the subject. The first difficulty connected with church rates was the practical question of the enforcement of the law. The hon. and learned Gentleman who spoke last appeared to think that there was no difficulty in this respect, and that there were means of enforcing this legal obligation on the part of the parishioners. He (Mr. Horsman) had always understood that there was both the power and the legal obligation

Mr. R. Phillimore

in existence; but the difficulty they laboured under was, that there were no means of discovering what was the precise mode by which that power was to be put in operation. He held in his hand the evidence given by one of the highest authorities in the country upon this subject, before a Committee of that House, which had sat about two years ago—he alluded to Dr. Lushington. That learned gentleman admitted that the obligation existed. On being asked this question—

“If the order from the Ecclesiastical Court be disobeyed, what would be the consequence of the refusal?”

Dr. Lushington said—

“If the power of the Ecclesiastical Court is properly put in motion, and that no mistake is made by the professional men who are endeavouring to compel the parishioners to repair the church, I believe that the Court has the power of enforcing the obligation; but considering that those proceedings are now obsolete for 150 or 200 years, I think that there is a great chance that there may be a miscarriage for want of form, so that the power of the Ecclesiastical Court could never be called into complete effect.”

Dr. Lushington is asked this further question—

“If a person were determined to be litigious, and to raise every possible obstacle to the process of law, is it not conceivable and possible that the cause might be carried from the magistrates to the Consistory Court—from the Consistory Court to the Court of Arches—from the Court of Arches to the Court of Queen’s Bench—from the Court of Queen’s Bench to the Exchequer Chamber—from the Exchequer Chamber to the House of Lords—then back again to the Ecclesiastical Courts, and ultimately to the Privy Council?”

The answer was—

“There is no doubt whatever that such might be the case. The Braintree case did more than follow that course; for it has been twice in the Court of Queen’s Bench.”

He (Mr. Horsman) came now to the next point—namely, the principle of church rates. The principle of church rates was not that everybody should contribute to the repair of the church because it was a State Church established by law, but because it was a Church to which originally the whole nation belonged. While the people of this country professed one religious faith, there was then nothing at all objectionable in the principle, or grievous in the practice, of enforcing payment of church rates. A different state of things, however, now existed—and a very large, powerful, and influential portion of the people do not belong to the Established Church. That being the case, it arose that the objectors to the rates were often

of sufficient power and number either to render the levying impossible, or to associate the enforcement of the rate with so much ill-blood as to make it a grievance, and give it an appearance of great odium and great tyranny. If, then, this were the case, the question arose, was it desirable, was it wise, to continue this source of embarrassment, strife, and ill-will, by which the Established Church was much more injured than were the Dissenters themselves? He admitted that the measure proposed would be a little inconsistent with the maintenance of an Established Church, and he only supported such a measure because he saw no hope of the proposition of any other legislation to meet the embarrassment arising from this question, and he preferred the total abolition of church rates to the continuance of this embarrassment. If no middle course were presented to him by the Government, he would prefer the total abolition of church rates to the continuance of the present embarrassment and difficulty which attended the question. The Church lost daily more in influence and character than it gained in money payment by the exaction of a small and miserable pittance from Dissenters; and the perpetuation of church rates would perpetuate great weakness and injury to the Church itself. With these feelings, he, as a member of the Established Church himself, thought the House would do well to vote in favour of the Bill of the hon. Member for the Tower Hamlets.

Mr. VERNON SMITH said, he thought the question at issue was now reduced to a very small compass. In all that had been said by the hon. Member for Cambridge-shire (Mr. E. Ball) with regard to the important position occupied by the Dissenters, and the value of their efforts in promoting education and religion, he entirely and readily agreed. He did not dispute that for one moment. But he preferred looking at the question before the House as one of general expediency, and not as a question of Church of England or Dissenters. The House ought to ask itself, whether it was not bound to put an end to a tax or rate of which the inevitable result was religious squabbles, leading to irreligious feelings. Numerous attempts had been made during the last twenty years to settle the question by legislation, but in every instance without success. And the House now stood in this position. Here was an evil the existence of which had been acknowledged for

more than a century, and for which no remedy whatever had yet been adopted. The right hon. Member for the University of Cambridge (Mr. Goulburn), who, from his position as an Ecclesiastical Commissioner, and an experienced Member of that House, might fairly be supposed to have used the strongest arguments that could be brought against this Bill, had himself admitted that the state of the law relating to church rates was very unsatisfactory, but the right hon. Gentleman did not propose any remedy for the evil he acknowledged to exist. The hon. and learned Member for Tavistock (Mr. R. Phillimore), in a tone of triumph, had alluded to the decision of the House of Lords, and said that the opinion of Lord Truro was that there was an imperative legal obligation to support the Church; and yet he admitted that this legal obligation was one which could not be enforced by any legal remedy. The right hon. Gentleman (Mr. Goulburn) talked with some degree of ridicule of conscientious objections to the payment of church rates; and of course it was open to any who chose to adopt that line of argument. But for his (Mr. V. Smith's) part he was ever ready to acknowledge and respect the conscientious objections of any man of probity and honour, though he concurred with the right hon. Gentleman, that it would never do in matters of taxation to exempt individuals merely on account of those objections. There was another question than this, however, and it was, whether they should allow the continued imposition of a tax which led to agitation and bickerings with regard to religion; and whether it might not be expedient and right to repeal such a tax when they found it to strain conscientious objections, give rise to religious scruples, and excite religious animosities throughout the length and breadth of the land. The right hon. Gentleman also asserted that the abolition of church rates would be destructive of the Establishment. Did he really believe that this was the fulcrum by which the Church was to be destroyed? He (Mr. V. Smith) thought that that fulcrum was rather the continuance of the agitation which the system of church rates occasioned, and if he wanted to destroy the Church he would keep up that agitation. If he were a Dissenter, and wished to do as much mischief as possible to the Church, he should be continually dwelling upon its grasping notions. He should be continually reproaching it with deriving

from the people who did not believe in its religion a rate for the support of that religion. A finer storehouse for vituperative eloquence was not to be found than in the discussions on church rates which took place, even in the placid atmosphere of Liverpool, and other places where they were the cause of perpetual agitation, mischief, and strife. Let them settle this question, and they would disarm the enemies of the Established Church of one of their most effective weapons of attack. The hon. and learned Member for Tavistock (Mr. R. Phillimore) proposed that they should relieve Dissenters, as such, from contributing to the tax; but he (Mr. V. Smith) thought it would be improper to offer a temptation to men to say that they dissented from the doctrines of the Church in order to escape payment of the rate. He did not know if the Government meant to deal with this question. The question was one, he granted, that was difficult of settlement, and he did not know whether the Government proposed to settle it or not.

**LORD JOHN RUSSELL:** We do propose to settle it. We propose to settle it next Session.

**MR. VERNON SMITH:** That might be so; but his noble Friend was not the first Minister who had declared that he proposed to settle this vexed question next year. For his own part he saw nothing but good in the abolition of church rates. It was said that these rates were intended for the purpose of giving church accommodation to the poor; but he had never seen this result arise from their imposition. He asked those who attended churches in large cities, where church accommodation for the poor was most wanted, if they ever saw the poor attending those churches? For himself he could say that he never had. The statement, then, that the rate was raised for the accommodation of the poor, when they came to inquire what was the practice, turned out to be contrary to the fact. He denied that the members of the Church of England were not ready to subscribe, and largely subscribe, to the maintenance of their own churches. It would be a reproach to them if they were not, and would give an immense advantage to the various dissenting bodies who provided and maintained their ministers and chapels at their own expense. The practical question now before the House was, would they allow this great wrong to continue without applying a remedy. The only remedy pro-

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posed was that of his hon. Friend (Sir W. Clay), for which in consequence he should give his vote.

**THE CHANCELLOR OF THE EXCHEQUER:** Sir, I do not, I confess, concur in the last sentence of the right hon. Gentleman who has just sat down, who says that the practical question before us is, whether we will leave this great wrong without a remedy. It will be obvious from what I shall say that I think there is a considerable wrong, and that it demands a remedy; but the question involved in the present vote is not whether this great wrong shall be left without a remedy, but rather whether there shall be a demonstration on the part of the House of Commons in the imperfect form that is afforded by a Bill which we all know cannot pass into a law this Session, against the present system of church rates; for a perfect remedy for the evils and the difficulties which attach to that system I apprehend no man among us is sanguine enough to hope for, at least during the present Session. Now, I am not surprised, considering the circumstances enumerated by my right hon. Friend (Mr. V. Smith) and others, that Gentlemen who have witnessed the frequent failures of Governments in their endeavours to deal with this question, and the immense amount of local evil and irritation it has caused, together with the absence of any proposal at present emanating from the Government on the subject—I say, Sir, I am not surprised that Gentlemen, seeing this state of the case, should do what I venture to describe a vote for this Bill to be, and attempt in that manner to express their feeling against the present system of church rates, even although, as was stated by the hon. Member for Stroud (Mr. Horsman), they give their vote for this Bill not in consequence of their thoroughly and heartily going along with it in preference to any other proposal, but simply as a choice between contending difficulties, and on account of their conviction that Parliament ought rather to abolish church rates than allow the present system to continue. Now, if I am right in my opinion—as I think is pretty plain—that it is vain to hope for the settlement of this question by an Act of Parliament during the present Session, then it is also true that these are not the only two alternatives to be had recourse to. I will, with the permission of the House, venture to state, in a very few words, the view which I take of this question with all its difficul-

ties. I quite agree that the case for a change in the law of church rates is an irresistible case. It is hardly possible to exaggerate the strength of the obligation incumbent on the Government to take this question into its view. It is hardly possible, I am afraid, on the other hand, to exaggerate the difficulties that we shall have to encounter when we come to propose a practical measure; but I trust that the indulgence and consideration of the House, when that time arrives—and I wish earnestly that it may arrive very soon—will enable the present Government, or those who may occupy their places, to encounter those difficulties, and make an equitable and fair arrangement, as far as the circumstances of the case will admit. I think the first reason why the law of church rates ought to be altered is this—that it tends to weaken the foundation of all law in a country where you have an admitted legal obligation existing, without the adequate means for its enforcement. Now there is no doubt about the legal obligation. So far as I am acquainted with the documents and facts connected with the Braintree case, I believe that the very judgment which defeated the means of carrying it out reiterated and confirmed the declaration of the legal obligation. Well, that is a state of things which ought not to continue; we ought either to bring the means of enforcement up to the standard of the legal obligation, or else we should reduce the standard of legal obligation down to the point where it will admit of enforcement. Now, I say, in the first place, that the state of the law of church rates is a very great grievance to the Church itself. In a multitude of parishes the church rate is contested. If it is obtained amidst animosities and heart-burnings, where it is so contested it inflicts far greater evil, misfortune, and impediment on the Church than it confers benefit on it; and if the rate is lost, what again happens? Why, that the church is left entirely without support from the rate, and so far is put on the same footing as the fabrics belonging to other denominations of Christians; but only so far, because it is left to those denominations who are connected with other fabrics to associate themselves as a body of private individuals for the maintenance of their own fabrics, and to take into their own hands exclusively the management of the funds they may please to vote for such a purpose; but that it is not competent for the mem-

bers of the Established Church to do. Take the case of a parish where the bulk of the ratepayers were indisposed to support these rates, but where a portion of them were disposed to do so. It is not competent for that part of the parishioners who are so disposed to constitute themselves into a body for the purpose of applying their means to that object; and it is beyond all doubt, that if, notwithstanding these difficulties, gentlemen belonging to the Church of England choose to subscribe for the maintenance of their church, the application and disposal of the money they thus raise is not placed under their own control, but they are open to be run in upon, and to have the control of the application of their money taken out of their hands, and put into the hands of the very men who perhaps the week previous had voted against the levying of a church rate. That, I say, is a great grievance to the Church. Well, I am ready also to subscribe to the doctrine that the law of church rates, as it now exists, is a grievance to the Dissenter; and it is a grievance to him on this ground—as stated by the hon. Member for Stroud (Mr. Horsman)—that the present state of the law of church rates, although in its exterior form and husk it may seem to correspond with what it was in ancient times, yet in substance, effect, and operation it is now totally different from what it was in those times. In ancient times, with only one religion in the country, and one Ecclesiastical Court, nothing could be better, more simple, more healthy, or more just, than the law of church rates—it was a law adapted to the state of the population, where the benefit conferred and the burden imposed went together. But is that the case now? On the contrary, where a church rate subsists in a parish, it subsists simply as a tax, from which no advantage is derived to a large class of the population. The Dissenters—I speak not now of the occasional ordinances at which they are present—the Dissenters are disqualified in a great degree from receiving that advantage. I, therefore, admit that the law is a hardship to the Dissenter as well as to the Church. Then the next question is, if the law of the church rate on grounds such as these and on other grounds ought to be altered, does it follow that that law ought consequently to be abolished? Sir, I must confess that I do not think that the law ought to be abolished. I speak, of course, with reservation, because really

the difficulty of finding a remedy is such, and the existing evils are so severe, that I do not think any man ought to bind himself to any course that might prevent an escape from them; but I have a strong belief that the law ought not to be altogether abolished, and for this reason—that in the great bulk of the parishes of the country, numerically considered, the law of church rates in its substance still works well. It works quietly—it works feebly—it does not work ineffectually, but very much according to its original spirit and intent. I speak not now of the great and populous parishes in the large towns, which hon. Members have often in their minds when discussing these questions, but of the multitude of our rural parishes scattered throughout the country. Unfortunately, we have not the means of getting at the exact number of the parishes in which church rates are either refused or contested; but although we do not know the precise number, yet it can be stated within certain limits. There are about 11,000 parishes in the kingdom, and it is not, I think, an illiberal estimate (it may be far beyond the mark) to reckon that out of the whole 11,000 parishes the number in which church rate has been either refused or contested does not exceed a few hundreds; if we take them at 500 parishes, I think the allowance will be a liberal one to make. Then, if that be true, and if there be 11,000 parishes altogether, and if it be further true, as we know it to be true now, that it is in the power of the ratepayers, if they choose, effectually to neutralise the legal obligation, and it be referred, as it practically is at this moment, to the will of the ratepayers to enforce church rates or not, as they please, then I say the fact that disturbance and heartburning occur in levying church rates in 500 parishes is not an adequate reason at first sight for totally sweeping away a system which excites no disturbance and no heartburning whatever in the remaining 10,500 of the parishes of the kingdom. In the rural parishes the church rate both is and is felt to be a subsisting burden on the fixed property of the country. In the towns, I grant you, whether it has had that character historically or not, that that character has from one cause or another ceased to be traceable. It is no longer so found nor so operates, but in the great bulk of the rural parishes the church rate, although much smaller in amount, yet is felt to be

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and is known to be as distinctly a burden upon the landed property of the country as is either the tithe or the rate for the relief of the poor. Now, is it right or desirable that that tax should be abolished? I must confess that I think not, and for this reason, that in the rural parishes a distinctly opposite state of things prevails from that which prevails in the towns and the populous parishes. In the towns and the populous parishes what have you got? In the first place, in the populous parishes there are large numbers of the people, and sometimes majorities of them, who are divided from the Church; and many of the churches are not able to receive the people if they were willing to come, whilst there are other churches also in which all the area, or the eligible and desirable parts, are no longer the public property, but are monopolised by the members of rich and wealthy families by one of the grossest abuses that has ever prevailed in a Christian country; so that, practically, the doors of the church are closed against the people on whom you impose the tax of church rates. But in the rural parishes—I do not say universally, but generally speaking—the churches are not wholly inadequate to receive the people, and the practice is, that the churchwardens are not only bound to find, but do find, accommodation in the church for the population of all ranks, being parishioners, who choose to apply for that accommodation. Therefore, in the rural parishes, the ancient law of church rates, which connected the imposition of the tax with services to be rendered and benefit to be derived, still exists, and remains in vigour, to a great extent, and I am by no means sure that it is in your power to substitute any more beneficial system than that which exists at present there. Well, if that is so, and the abolition of church rates is undesirable while a change in the law is almost a matter of necessity, what are the modes of proceeding that have been suggested? There was one suggested, and by a considerable authority, that was received with a good deal of favour at the time, but that time was twenty years ago, and we have moved onwards in these matters since then—I mean the plan proposed in 1834 for restricting the levying of compulsory church rates to so much as is necessary for the maintenance of the fabric, and placing the remainder of the charge upon the Consolidated Fund. I do not think it necessary to enter into the dis-

cussion of any plan of that nature. For my own part, at least, I may say that I would not be expected to look with any peculiar favour to the placing of any portion of this charge on the Consolidated Fund, of which I am regarded as, perhaps, the especial guardian and protector. But that is absolutely out of the question, under any circumstances, as the charge for the fabrics, which is now a local charge upon the property, would be taken off the shoulders of the proprietors of that property to be placed upon the shoulders of the taxpayers of the country in general. Well, then, there are plans proposed for the exemption of Dissenters as such. I do not concur in the apprehension that the exemption of Dissenters as such would offer a dangerous inducement or a premium to dissent. I do not believe that there would be ten Dissenters more or less in the country in consequence of the exemption of that body as such from the tax; but there are certainly difficulties which attend a proposition of that kind. But then it was said that many Dissenters consider that it would be injurious to themselves, and if that be so, that is a very serious difficulty. I cannot say for myself that I understand how that difficulty arises, because, although many persons belong to a national or an established religion without paying to it any very distinct homage in their conscience, yet those who dissent from an established religion do so generally, I should suppose, from very distinct grounds of conscientious objection. It has been my fortune to reside some time in Scotland, where I am a Dissenter; and I may say for myself that I should not have any objection to register myself as a Dissenter at any time that the law might require or anybody desired. At the same time this is a question of feeling, and feelings must be considered when they arise in any attempt to adjust a matter of this description. But, even supposing this exemption of Dissenters as such to be made, it would not go to the root of the question, because, in respect of the great town parishes, I hold that the town population is pretty nearly as much aggrieved by the law of church rates as the Dissenters are; and for this reason, that the bulk of the church population cannot obtain accommodation at public worship, because the floors of the churches are appropriated, monopolised, and I might almost say robbed from the people, whose inheritance the church ought to be, by the pew-rent system; and, therefore, I say it

is clear that exemption of Dissenters, be it a good or a bad measure, would not go to the root of the matter. Well, another plan has been proposed by my hon. Friend opposite (Mr. Packe) for restricting the church rate to what is necessary for the sustentation of the fabrics. No doubt that would be a very great mitigation of the existing evils; but, although it mitigates those evils, and reduces their sphere, yet it must be obvious to my hon. Friend that he cannot hope for a complete and definitive settlement of this question upon that basis; because, although you would thus make the amount to be levied less than it otherwise would be, still you would yet be liable to all the objections on the ground of justice attendant upon the levying of a tax that was originally intended to be levied in consideration of service rendered in cases where no service is rendered, and where it cannot be rendered, in consequence of circumstances that are recognised by law. So that you cannot look to the mere restriction of the rate for the repair of the fabrics as being in itself a solution of this question. Now, I must confess that it is a much easier matter to offer objections, first to one plan and then to another, which are proposed by others for the adjustment of this question, than to submit any plan which is in itself free from objections. I earnestly hope that when we come to the consideration of this matter, we shall come to it—whether we sit on one side of the House or the other—with a disposition and a temper prepared to abate something of extreme rights, extreme opinions, and sensitive feelings, or else it is perfectly plain that the question never will be settled. Now, I have the greatest hesitation and difficulty in alluding almost to any mode of proceeding; but I must confess it appears to me that there is much to be said in favour of some plan that has for its main object a division between that class of parishes where the law of church rates works well, and the class of parishes where it works ill. [*Murmurs.*] I am not at all surprised or mortified at witnessing this manifestation on the part of hon. Gentlemen. If the plan I have just mentioned fails, it will only add one more to the long list of abortive suggestions that have been made on this question. I will not say whether a system of this kind could be brought into operation; but I will only point out the mode, if it be brought into operation, in which I think it ought to be done. I do not make a proposal—I merely with great respect venture to throw out a

suggestion to the House. I should not propose to proceed by drawing an absolute distinction between parishes with over a certain population and parishes with below a certain population. I rather would take the state of facts that we have got before us, in which we practically find that there are a portion of the parishes in which the ratepayers are averse to church rates, and a greater proportion in which the ratepayers acquiesce in and give effect to church rates. It is practically referred to the choice of the ratepayers already. I should be content to refer the matter to their choice by law. Now, suppose it were so referred, and made competent to the ratepayers in a parish by a declaration or act come to and registered in due legal form, to place that parish outside the operation of the law of church rates, how would such a plan work? I confess that my opinion—my hope I would rather say, my opinion is too bold a word—but my hope is that that plan would work by leaving the rural parishes of the country very much as they are now—that the great bulk of them would continue, as they now do, to levy and pay church rates. How would it work in cases where the rate is now refused? Why, it would give to the parishes a legal title to that which they enjoy now *de facto*, but enjoy undoubtedly with very questionable legality. But, whether it be thought that the law of church rate should be abolished, or whether it be thought that it should be left to the ratepayers of each parish to levy church rates according to their own judgment, one thing I venture to press on the House with great confidence—and it is the only thing on which I am bold enough to say that I do feel great confidence—that if in all parishes you abolish the law of church rate, or in any parish you abolish that law, you ought not to stop there, because if you did you would be guilty of great injustice. And I confess that I cannot adopt the Bill of the hon. Member for the Tower Hamlets, because of the injustice which I think it involves, for in abolishing church rates it leaves the Church in this condition. You will observe that it seems to aim at establishing legislative equality, but it really creates a new form of legislative inequality. It is assumed that the Established Church depends for support upon funds secured to it by law, and it deprives it of those funds—well and good!—because the Church ought not to be put in a different position in this respect from the Dissenting denominations. But do you put the Church in the same position as the Dissenting bodies

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by this Bill? No; but you deprive it of its legal support, and you leave it in a condition of total incapacity to fall back upon voluntary support; because those who might be disposed to give her this voluntary support—it is additted on all hands—have no power of securing to themselves the legal application of their own funds. Therefore I put it to the hon. Member, that if he wishes to make his measure a just one, he ought to include in it provisions which would enable the ratepayers of a parish, being willing to contribute as private individuals to the support of the Church, to take into their own hands, subject, of course, to the provisions of the law, the application and management of their own money. It is possible that, amidst the difficulties of this question, we may be driven on the total abolition of church rates; but at all events, my hopes of avoiding that alternative are not at all raised by what I have seen and heard during this debate to-day. I put it, however, to the House that it would be most unjust, if we pretend to establish a system of equality, to leave the lay members and the clergy of the Church of England under such a great grievance as I have described, that while you cut off from them their present means of raising funds for the maintenance of the fabrics of the church, they are likewise deprived of those voluntary means and agencies which are open to persons belonging to all other communions in this country who are desirous of applying their own resources to supply their own religious wants.

MR. PACKE said, he should reserve his opinion on the suggestion thrown out by the right hon. Gentleman the Chancellor of the Exchequer until he saw the measure which the Government intended to introduce next Session. If the Government failed to make good their promise in this respect, he (Mr. Packe) should reintroduce his own measure, which he had abandoned for the present, to which he had heard no real or valid objection offered, and which, avoiding the registration of Dissenters, limited itself to legalising a rate for the simple repair of the fabrics of the church. The speech of the right hon. Gentleman (Mr. Goulburn) had met with no refutation whatever from any hon. Member who had spoken in favour of the Bill upon the table. That speech was, indeed, unanswerable. The real question they were now discussing was as to whether the Church should be destroyed as a national establishment, or maintained in the same manner as hereto-

fore; and there was not a statesman of any eminence who had ever spoken upon the question but had declared that the Church ought to be supported by the nation at large. The Established Church was, in fact, not intended for individuals merely, but for the nation collectively, and particularly for the poorer classes of the country, and the question raised by this Bill was, were they prepared to destroy the Established Church as such, or were they not? He begged to call the attention of the House to the opinions of men on this subject, who, in their day, were persons of great weight. He trusted the House would listen to those opinions, because they were uttered by men who had the confidence of hon. Members opposite. The late Lord Althorp, in the year 1834, said he entirely agreed in the opinion that it was the absolute duty of the State to provide places of worship for the poorer classes. The noble Lord (Lord John Russell) had stated that it was the intention of the Government to bring in a Bill, and he (Mr. Packe) recommended the hon. Baronet (Sir W. Clay) to adopt the course taken by the hon. Member for Exeter (Mr. Divett) in the year 1834. The hon. Member for Exeter, in that year, proposed a Resolution to the House, that it was just and expedient to abolish church rates, and upon receiving an assurance from Lord Althorp that the Government intended to take up the matter and bring in a Bill on the subject, the hon. Member withdrew the Resolution, and he (Mr. Packe) recommended the hon. Baronet to follow that precedent, and withdraw his Bill. In the year 1837 Lord Montague—then Mr. Spring Rice—gave his opinion on the subject, and stated that when the Army and Navy could be supported by the voluntary principle, then he would consent that the voluntary principle should be applied to the Church. The hon. Member for Cambridgeshire (Mr. E. Ball) alluded to a speech that had been made in that House by the Earl of Derby, and he (Mr. Packe) yielded to no man in his personal respect for that highly-gifted nobleman. The hon. Member, however, had misquoted the year, for instead of 1837 it was in 1834 that the speech was made, and he (Mr. Packe) found the following words in the same speech of the noble Earl:—

"It was the very essence of the union at present subsisting between Church and State, that the State should, out of the public funds, defray the expenses of the religion it established.—[3 *Hansard*, xxii. 1035, April 21, 1834.]

On Mr. Spring Rice's Bill in 1837, the noble Earl also said he was convinced that, if they yielded on this point, concession after concession would be got from them until not a shadow remained of the national Establishment. In conclusion, he (Mr. Packe) most cordially gave his determined opposition to the Bill.

Mr. BASS said, he had on that morning received a letter from some respectable Dissenting constituents of his, requesting of him not only to vote for the Motion of the hon. Baronet (Sir W. Clay), and present their petition in favour of it, but also to speak upon it. He had presented that petition, he intended to vote for the Motion, and the third obligation he was now endeavouring to fulfil. He wished they could bring their constituents into that House for a month to enable them to judge of the value of a silent and of a talking Member. He had listened to hon. Members, who very often abused the patience of the House, and he considered that unless a man had something to say which the House had not heard before, he should hold his tongue. When they heard tiresome speeches repeated time out of mind, it was the practice for hon. Gentlemen whose patience was at last exhausted, to cry, "Divide!" and "Question!" which were well understood by the hon. Gentleman who was addressing the House at the time. It happened last week that when his hon. Friend the Member for Montrose (Mr. Hume) was making his ninth speech on the Bills of Exchange Bill, that he (Mr. Bass) ventured to cry out, in very modest tones, "Divide, divide!" and the hon. Member turned round upon him and looked as if he would kick him out of the House. Two nights before the hon. Member for North Warwickshire (Mr. Newdegate) made four speeches on the question of private houses—he thought they called them—in Oxford University. He was not surprised that he should be a little confused about the proper denomination of those establishments, of which he most sincerely approved; but the hon. Member said so much one way and so much the other, that he drove the distinct term out of his head. But the hon. Member, having made three or four speeches, said the House would not listen to him, and declared if the House would not listen to him he would divide; but by-and-by he started up again, and made two or three more speeches, and he (Mr. Bass) cried out "Divide!" [*Cries of "Question!"*] He was endeavouring

to show how they had not the privilege of acting strictly according to conventional understanding, and how they came to conclusions at which, if guided by strict etiquette, they would not arrive. He was bound to conclude by expressing his earnest wish that this long-vexed question should at once be settled, and that it should not, at all events, be debated at any very great length.

MR. BRIGHT said, he supposed his hon. Friend (Mr. Bass) thought the question of church rates had been nearly threshed out, and, therefore, had recourse to almost everything else but the question before the House to make out the materials for a speech. Having listened with the most minute attention to the interesting speech of the Chancellor of the Exchequer, he must confess he was as much puzzled, as most of the Members of the House must be, whether the speech was intended to be made for that side of the House or for the other side. On the whole, however, he thought the speech would be found to be in favour of the view he (Mr. Bright) was known to take in support of the abolition of church rates. He was inclined, however, to think, from what the right hon. Gentleman had said, that the difference in the Cabinet on this question was not less remarkable than those which were supposed to exist on all other questions. He had in his eye a Cabinet Minister who was entirely in favour of the abolition of church rates—they had heard the speech of the Chancellor of the Exchequer that day—the last time the question was before the House they had heard the speech of the noble Lord the Member for the City of London—and as he was leader of the House, and had been lately strengthening himself in the Cabinet, and for all he (Mr. Bright) knew might before long be leader in both Houses, he would prefer taking the speech of the noble Lord as the actual indication of what they had to expect on this subject from the Government. The noble Lord's opinions were such as they were accustomed to hear from the highly respected Baronet who recently represented the University of Oxford (Sir Robert Harry Inglis). He should not refer to the noble Lord's opinions were it not that some Members of the House might be induced to think that, if the House did not support this Bill, something would be proposed by the Government. The noble Lord defended the course he took on two grounds: first of all, that it was not worth while to hope to

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satisfy the Dissenters by the various concessions which at different times had been claimed and granted; that, in point of fact, every concession that had been granted merely built up a platform from which the claimants asked for something more. He did not think that was a fair argument. The same cry had been heard four or five and twenty years ago from Mr. Croker and Sir Charles Wetherell when Parliamentary reform, or any amelioration of the laws, was under discussion. But the noble Lord had another argument which was important, and contradicted the whole case that had been laid before them by the right hon. Gentleman the Chancellor of the Exchequer. The noble Lord said he would not consent that the Church should abandon the property it had in these rates without provision being made for giving it an adequate compensation. He thought the noble Lord must have made that speech without very much preparation or thought, or he would not have used an argument like that. If the Church be a national Church—if this be a tax imposed by law—surely if Parliament chose to remit the tax and abolish the law, it was not necessary that Parliament should ask for compensation from the people they were about to relieve. The noble Lord must know that his argument was unsound on another ground; for, notwithstanding what had been said by the hon. and learned Member for Tavistock (Mr. R. Phillimore), he (Mr. Bright) maintained that the question practically stood in this way, that whether they should have a church rate or not in any parish depended upon the will of the majority of that parish. The decision of the House of Lords brought the question practically to that state, and any idea that they could get the rate except by the consent of the majority of the parishioners was a delusion which he would not recommend the hon. and learned Member for Tavistock to entertain for a moment. It was impossible that the Church or any person could have a vested right in that which the majority could refuse. If the rate were voluntary, not as regarded individuals, but as regarded the population of an individual parish, it was out of the question to say the Church ought to have compensation. He did not expect such an argument, except under the most desperate circumstances, although he believed the noble Lord was now often reduced to desperate circumstances, and people, when reduced to desperate circum-

stances, made use of arguments inconsistent with their past conduct. The noble Lord, in taking the course he did in 1837 and 1838, and in using the arguments he had used when the question was last under discussion, had been singularly inconsistent. The noble Lord had said that next Session they would bring in a Bill to settle this vexed question, but he (Mr. Bright) supposed that that would depend upon the condition of the Sublime Porte. Already six Bills had been put by, with the intention, he presumed, of reintroducing them next Session, and this Bill, he supposed, was to be added to them. The Chancellor of the Exchequer had advised the hon. Member for the Tower Hamlets to withdraw the Bill, because, he said, there was no chance of its passing this Session, but in his (Mr. Bright's) opinion it did not exactly follow that, because Government could not pass half a dozen Bills, a large number of the Members of the House could not pass one Bill in which they were agreed. He (Mr. Bright) had never felt the slightest hostility to the Church as a religious body; he opposed it as a religious institution, and he doubted very much whether it was of any essential benefit to the country, but that might be a question for their children or grandchildren to settle. Although this tax might be a just and proper thing 200 or 300 years ago, yet now it was neither just nor proper, inasmuch as one-half of a particular religion, or less—he would presume it to be one-half—maintained the right of taxing the other half, which other half by degrees had been drawn off from the Established Church, or never belonged to it at all. The right hon. Gentleman the Chancellor of the Exchequer seemed to think that it was only in certain parishes this was felt as a grievance, and that in a great number of parishes the rate was still levied and acquiesced in; but the right hon. Gentleman must know that every day the number of parishes in which the rates were opposed was increasing, and he was sure the speech of the right hon. Gentleman could have no other effect but to increase the number of those parishes very materially. Even where there was no outward opposition to the rate, there was a number of persons, not amounting to a majority, who felt the matter to be a grievance; and when there was a contest in a parish on the subject of church rates, there were not a few Churchmen—notwithstanding they felt bound to support them, in consequence of their connection with the Church, and

with a certain political party—who wished the rates had never been imposed, and who felt it extremely difficult to give their vote in support of them. Few persons had more experience on the subject than he had, for up to the year 1840 he had lived in a parish that was the scene of contests such as had never taken place in any other parish in this country. He had seen 3,000 or 4,000 parishioners in the churchyard addressed by an aspiring orator, who denounced the church rates, and the church was surrounded by persons in a temper of mind which it was desirable should not exist in any place, but more particularly in the immediate vicinity of a place of worship. He had known an expenditure take place on such occasions far exceeding the expenditure at contested elections. He had seen the military called out to overawe the mob or to promote the particular objects of a party, and the vicar of the parish was subjected to imputations and to insults which every man must regret to see offered to a person holding the position of a minister of religion. But if the rate were obtained, after all they would have to encounter another state of circumstances, such as the other day had been laid before the House. There were applications to the magistrates for warrants against certain persons who refused to pay; the warrant was granted; some low bailiff or officer was sent into somebody's house, his furniture and plate were taken away, and in humbler houses the humbler materials of furniture were taken, and there was afterwards a public sale of them in the public street, by an auctioneer. He was surrounded, not by persons who wanted those things—for no respectable person, or person with the slightest feeling of justice, would attend and buy—but by the unprincipled, the drunken, and the dissolute, and to those persons the goods were knocked down very much below their real value in most cases, and perhaps there was not as much raised as would be sufficient to pay the sum due for church rates and for expenses. The right hon. Member for the University of Cambridge (Mr. Goulburn) had talked about the poor man's Church. Now, without depreciating what had been done by the Established Church, he (Mr. Bright) must say that, in his opinion, within the last fifty years the dissenting bodies had done quite as much as the Established Church for the poor of the country, and he would ask hon. Members who opposed the abolition of church rates, what effect, in their opinion, was likely to be produced

upon partially educated or uneducated persons when they saw officers of the law entering the houses of their neighbours, seizing their goods, and offering them to public sale for the payment of church rates? It was impossible that the poor could be drawn to the Established Church by any such system as that, and that system was responsible for the sorrowful fact brought out by the Census, that a very large number of persons, especially belonging to the humbler classes, attended no place of worship, and appeared to have no sympathy either with the Dissenters or with the Established Church. He begged to call the attention of the House to a weekly paper called *Diogenes* which had been sent him, he supposed by some one who sympathised with the objects of the Bill now before the House, in which there was a picture dedicated to the hon. Member for the Tower Hamlets (Sir W. Clay) and the 129 Members of Parliament who voted for the abolition of church rates. Here was a very good representation of a church, and notwithstanding what the hon. Gentleman (Mr. Bass) had said about speeches, he hoped he would not object to a pictorial illustration in the House of Commons. Here was the picture of a church formed of various articles of household furniture, put together in a particular form. The corner of the tower was a chest of drawers, above them was an eight-day clock, the pinnacle was a sugar-loaf, and the roof a kitchen table and the portrait of the master of the house. Now, such things as this were not only offensive to persons connected with the Established Church, but to all persons who had any regard for religion. If men were induced to laugh at the Established Church, and to point the finger of ridicule at the ministers of that Church, they would easily be led to ridicule religion generally, and to disregard the precepts of that blessed book upon which all Christian Churches professed to be founded. He (Mr. Bright) would ask hon. Gentlemen what hope they had of getting rid of church rates in any other manner than that proposed by the hon. Member for the Tower Hamlets? The noble Lord (Lord J. Russell) did not like to make a concession, because, he said, he thought something else would be asked for. Why, the noble Lord himself had been asking for something else all his life. The noble Lord said, he could not surrender this rate except they gave some compensation; but he (Mr. Bright) did not know where the compensation was to

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come from, for the Chancellor of the Exchequer had repudiated in the strongest language any proposition for taking it from the Consolidated Fund. He (Mr. Bright) could not see where it was to come from, except from the resources of the Church itself. He had no doubt that a fund could be had; but not from the quarter the noble Lord had indicated. The right hon. Gentleman the Chancellor of the Exchequer suggested that something should be done in those parishes where no opposition was made against church rates, but did he not know that in those parishes there was a smouldering discontent that could not be extinguished? In Manchester there had been no rate for twenty years, but in a neighbouring parish it happened that the church rates had not been actually contested or overthrown, and the right hon. Gentleman proposed, because the people of that parish did not make a row, they should have no free will in future, and must pay the rate. He (Mr. Bright) had never heard of such statesmanship as that, but the simple fact was this, that the cleverest men—and very few men were more clever than the Chancellor of the Exchequer—when they got hold of a question, like the one now before the House, except they chose to settle it in the way in which every impartial and unbiassed man should desire to see it settled, without direct reference to prejudices or wishes, but to what was just, found themselves as incompetent as the veriest dolt. They found themselves, by endeavouring to mystify a question that was simple, trying to do that which could not be done. The Chancellor of the Exchequer would agree to register the Dissenters, labelling them and ticketing them like parcels going by the next train; but though they had been subjected to many insults during the last century, he did not think they would go ticketed about the country. According to the plan of the Chancellor of the Exchequer, the parish that had revolted against the law would be rewarded by the abolition of the law, but the parish that had not revolted would have the burden left upon it for ever without any power of refusing them. That was altogether childish, and the Chancellor of the Exchequer would not have proposed anything of the kind if he did not find the inextricable difficulty of settling the question on any other principle but that proposed by the hon. Baronet the Member for the Tower Hamlets. The Established Church did not come from the beginning, and in probability would not

last to the end. It was not necessary for him to deny that in any case it could be of no use; but that it was not necessary was proved by what was going on in the world. In the United States there were no discussions of that nature, and they found that in that country they were able to do everything by the voluntary principle which was done here by the voluntary and compulsory principles united. The ministers of religion in that country were as well educated and were as influential for the purposes of their position as the ministers of religion in England, and they knew also that the religious impulse in America had done all that had been done by the religious impulse here. Confining his observations to the free States, education was as much guarded as in this country. There were hospitals, asylums, and penitentiaries of the voluntary kind, which afforded places of worship for the unhappy, the guilty, and the suffering. Canada was taking the same course, and last year they had given them leave to do what before long probably they would do; namely, place all the churches of Canada on the voluntary principle. There was yet some difference of opinion on the subject in the Australian Colonies, but the time was not very far distant when the same principle would be established there. He did not wish by this illustration to hurt the feelings of any one, but to show that when such opinions were abroad, an Established Church, even when it had existed for ages, could only hope to continue its existence by the abolition of gross abuses, and by rendering itself as useful and as acceptable as it could do to the people, and as little insulting and aggressive as possible with regard to those who were opposed to the principle of such establishments. The Dissenters did not come to that House as suppliants. They had been, from the time of the Reformation, a growing body in this country. The Puritans first, the Nonconformists afterwards, and the Dissenters now; and all the power of the Jameses, the Charleses, and the Georges, had not been able to arrest the deepening, widening, fertilising, and purifying stream of nonconformity which existed in and blessed this country. During the reign of Charles II., 15,000 families were ruined, and 4,000 or 5,000 persons died in gaol, because they adhered to their own religious convictions; and did they think it possible, by this law they were discussing, or by any law but the law of kindness and conviction in the human heart, to bring the Dissenters

of the country back to the Established Church, or to prevent dissent from constantly swelling and increasing, while the numbers belonging to the Established Church were continually diminishing? He should, of course, vote for the proposition of the hon. Member for the Tower Hamlets, and would vote for it even if his opinions on the whole question of dissent were totally different from what they were. He assumed that the House wished to get rid of the whole question of church rates. They were told that the hon. Baronet (Sir W. Clay) did not offer a substitute; but it was not their business to suggest a substitute; their object was to get rid of the law, and of the rate, and that they were resolved upon doing. Even the hon. and learned Gentleman (Mr. R. Phillimore), who came fresh from the Ecclesiastical Courts—which was no great recommendation, he thought, to anybody—and everybody denounced the law, and there were hundreds of parishes in England and Wales where there were no church rates paid at all. He begged to call the attention of the House to an extract from a speech made in the other House by the Bishop of Oxford, on the Motion the other day of the Earl of Winchelsea, with regard to church accommodation in the manufacturing districts. That was a Gentleman who did not share his (Mr. Bright's) opinions in any respect, but he was one of the most able men on the episcopal bench, both as a writer and a speaker, and his attachment to the Church no one could doubt. He was reported to have expressed the following sentiments—

"He was convinced that in the present state of the population of the country the Church of England could not, with propriety or advantage, ask for grants from the public funds for the strengthening, encouragement, and development of religious education. The Church of England was the Church of the overwhelming majority of the people of this country"—that was, of course, an episcopal figure of speech—"This fact, however, he did not think would justify her in appealing to Parliament for the means of extending her power by grants of money, and he should deprecate, even if the Government were disposed to assent to such a proposal, the reception of such grants. . . . When they had expended 3,000,000*l.* by the aid of the Government upon building churches they could only raise 1,900,000*l.* of that sum by voluntary assistance. They, however, were enabled to raise 5,000,000*l.* within a very much shorter period, when they had only their own voluntary efforts to depend upon. . . . He should be sorry to see the expectations of those who desired to promote the greater efficiency of the Church disappointed, but he hoped that they would turn their attention to those internal exertions which he thought would suffice, with God's blessing, to

overcome the difficulty, rather than resort to what he believed was a dangerous and paleying source of revenue—namely, a public grant from the public money of this land.”—[3 *Hansard*, cxxxiii. 158-9.]

The Bishop of Oxford knew what was in Churchmen if they had an opportunity of exercising the power they possessed. He would be sorry, he said, to see the hopes and expectations of the members of the Church turned from its internal resources, which were sufficient, to so dangerous a source of revenue as any public grant of the public money of this land; and that observation was received with cheers. He (Mr. Bright) would ask the noble Lord the Member for the City of London to take courage, and try and get rid altogether of the idea of compensation. Did he not know that at that moment in hundreds of parishes the church was supported by the voluntary contributions of the congregation, and that in all those parishes where church rates had been abolished, the fabric of the church was as secure as when church rates were levied. It would be monstrous to suppose that the congregations of the Established Church would not provide for the washing of their ministers' surplices, for sweeping out the churches, or for the supply of the articles supposed to be necessary for one of the most solemn sacraments of the Church; but he thought a long-established law like that relating to church rates had a paralysing effect. The Dissenters had, from their position, been obliged to defray such expenses as those to which he (Mr. Bright) had just referred. The Dissenters no more thought of abstaining from supplying the necessary wants of the minister, or for the service of the chapel, than he would think of abstaining from supplying the necessary wants of his own table and of his family. He entered into a calculation of the expenses, and according to his means and liberality he felt it to be not only a duty, but an honour and pleasure, to give his help in behalf of the great objects which are connected with the support of the Christian religion in this country. If this Bill of the hon. Member for the Tower Hamlets were to become law, was there a single man who would get up and say he believed that in the parish in which he lived there could be nothing raised from the congregation, and that the church, from the want of extraneous aid, must fall into decay, and that provision would not be made so that divine service could be carried on? If any man could say that such would be the case, he would bring forward the greatest argument that

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could be used against the existence of an Established Church at all. When the Free Church of Scotland had raised 3,000,000*l.* within the last ten years—when in the principality of Wales two-thirds of the places of worship were raised by the poor dissenting population, whose ministers were supported by voluntary contributions—when, above all, the poor and outcast population in many parts of Ireland, particularly the west, had been able to build churches on every moor and in every parish, and to support their ministers and maintain what they believed to be right in religion—he thought he might appeal to the members of the Established Church who are Members of the House with confidence, and say, if they thought church rates should be abolished, they should not be afraid of supporting the Bill from an impression that their church would fall into decay, and that the performance of divine worship would be arrested. He thought that far higher interests than those either of dissenting sects or of the Established Church were involved in the question. He thought that most of those who cared for religion had mourned over the large portion of our people who are not touched by any part of the religious organisation of the country. Was it not possible that, if this element of discord were removed, and that sects and churches could live together more in harmony—if it could be said of them as it was of the Christians in the early ages of the Church, “Look how these Christians love one another”—it was far more likely than it was at present that that large outcast part of the people would feel themselves attracted, some to the Established Church, and some to the various dissenting sects? For his own part, he had no wish whatever that one should be more successful than another in this great harvest which was ready for the gathering, if they did but all act upon that fair and honest and Christian spirit which became the members of a Christian Church. On behalf, then, of the Dissenters, of the Church, of religion, and of civil liberty, which really was concerned in this question, he hoped that the House would that day express its opinion in such a manner that, if unfortunately this Bill were lost, the noble Lord the Member for the City of London would nevertheless feel that he had magnified the lion in his path, and that if he would only next Session take up this question on the simple plan of abolishing these rates, and of appealing to the good sense, the liberality, and the

Christian feeling of the Church population, the House would support him, and that this long-vexed question might be set at rest for ever.

LORD JOHN RUSSELL: Sir, the speech which the hon. Gentleman the Member for Manchester has just made, and the expressions which he has attributed to me, compel me to take part in this debate. The hon. Gentleman said that he takes exceptions to two arguments which he states that I used on a former occasion. One of these arguments he says was, that an unqualified and unconditional concession on the subject of church rates would lead to other demands. Well, all that I can say upon that subject is, that we have heard to-day, as we have heard upon former occasions, that this is a question of principle, that it is a question between an establishment and the voluntary principle, and that this is only one part of the proposal of those who wish us to exchange an establishment for the voluntary principle. It is not, I think, my fault, therefore, if, following the hon. Member for Southwark (Mr. A. Pellatt), and following the hon. Member (Mr. Bright) himself, I say that this unqualified and unconditional repeal of the present law is a proposal intended to forward the schemes of those who are the enemies of an establishment, and are in favour of the voluntary principle. Now, be it observed, I do not make it a charge against them that such are their opinions. I only say that, not holding those views—not partaking the opinion that the destruction of the Church Establishment, and the admission of all sects to an equality in respect of the voluntary collection of funds, would be advantageous—they cannot expect me to consider it as any inducement to vote for this Bill that it will lead me step by step to that total destruction of the Established Church which I deprecate. But then the hon. Member for Manchester says, that I employed another argument, namely, that some “compensation” should be given if church rates were taken away. Now, I do not believe that I ever used that word. I spoke, certainly, unexpectedly on that occasion, for I thought the debate would have gone on much longer than it did, and I may have used the word unadvisedly, but I cannot charge my memory with having done so, and it was certainly not within the scope of my argument to use the word “compensation.” What I maintained then was what I maintain now, that in abolishing

church rates you ought to make some provision for the maintenance of the fabric of the church. Is that inconsistent with the notion of an Established Church? On the contrary, it appears to me that it is essential. The State may choose to have no establishment. It may, as the hon. Member suggests, totally abolish such an establishment if it exists; but if the State chooses to have an establishment, there should be in connection with it persons with a sufficient income for their maintenance, and with sufficient learning and qualifications to give religious instruction, and likewise there should be a fabric maintained in which divine service may be performed, and in which the instructions and ministrations of these persons may have their due effect. It appears to me that a clergy with a sufficient maintenance, and sufficiently qualified, and a fabric in which their ministrations are to take place, are essential to a Church Establishment. Then I say that if you propose entirely to abolish the provision by which the fabric of the church is now supported, it becomes you, if you mean to support an establishment, to make some other provision less objectionable and less productive of evil and of heart-burning, but at all events to make some other provision than that which now exists for the maintenance of the fabric of the church. The hon. Member (Mr. Bright) talks of “washing of surplices,” and “sweeping of floors,” but that does not seem to me to comprehend the whole of what is intended to be provided for by church rates. What, Sir, was the original state of things? Our Catholic ancestors raised heaven-directed spires and venerable towers, not simply that the buildings to which they belonged might receive the congregations resorting to them; they thought it belonged to piety that they should make for the whole people an edifice for them to worship in, and worthy of the religious purpose to which it was dedicated. This is, therefore, not a question of “washing surplices” and of “sweeping floors,” but of maintaining those fabrics. As time went on there were those who said that they could not conscientiously resort to those churches, although they were intended for the national worship, but that their conscience led them to a different form of service and of church government, and that, therefore, they wished that other buildings should be erected for public worship. At first, as the hon. Member for Manchester has said, under Charles and James, they

were persecuted; they were driven forth from the towns; they were not allowed liberty of conscience; but the time came when the Act of Toleration was passed, and they were permitted to have that free liberty which no doubt was their right. But the Dissenters of those days, having got those rights, did not consider, like the hon. Member and many Dissenters of the present day, that they were debarred, as he says, by the Georges from the exercise of their rights of conscience. I happened the other day to be looking at a book, which is now before me, the life of a most distinguished, pious, and learned man—Calamy; and so far from complaining of the existence of church rates, and of an Established Church, he thus announces the accession of George I. :—

"He began his reign with a noble declaration for liberty of conscience, and never could be charged with acting inconsistently with it. At his first appearance in council, September 22, he made a declaration, in which he expressed himself in the following words:—'I take this occasion to express to you my firm purpose to do all that is in my power for supporting and maintaining the Churches of England and Scotland as they are by law established, which I am of opinion may be effectually done without in the least impairing the toleration allowed by law to Protestant Dissenters, so agreeable to Christian philanthropy.'"

He then sets forth the Addresses presented to the King by the Dissenting ministers of the several denominations, in which they declared that—

"Your Majesty's wise and gracious declaration, for which we render our unfeigned thanks, does sensibly relieve us under our present hardships, and gives us ground to hope that, as we are inseparably united in interest, and even in safety with the succession to the monarchy, as by law established, so we shall share in that protection and favour which will make us happy with the rest of your subjects."

So little was this eminent man—this eminent Dissenter—disposed to find fault with a declaration which began by saying that the King intended to do all in his power for supporting and maintaining the Churches of England and Scotland. The Dissenters of those days considered the Church of England as a great support to the Protestant interest, and continually expressed their wish to see it maintained on that ground. And here let me say that I believe that to the Dissenters of those days we owe very great benefits; to them we owe the constant support of the House of Hanover so inseparably connected with the liberty of this country; and to them we owe enlightened views of toleration and civil and religious liberty, and surely for

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which we cannot be sufficiently grateful. For my own part, therefore, in consideration of the character of Protestant Dissenters in those days, as well as of the efforts they have made in our own day to advance religion and to promote education, and many other good works, I should be most anxious that every concession should be made to them which would be consistent with the safety of the Established Church. But we now come to that which has been the great quarrel of late years, for the last quarter of a century, and, in some degree, for the last half century, and that has been, not, as I consider it, with reference to those ancient churches of which I have spoken—those ancient parochial churches—but in consequence of the great number of new churches in those towns where the Dissenters are exceedingly numerous, and where the increase of new churches, attended by church rates, has led, naturally enough, to resentment in the minds of the Dissenters. Hence the great struggle which we have had to deplore. But let me read the preamble of the Bill now before us—

"Whereas Church Rates have for some Years ceased to be made or collected in many Parishes, by reason of the Opposition thereto, and in many other Parishes where Church Rates have been made the levying thereof has given rise to Litigation and Ill-feeling: And whereas it is expedient that the Power to make Church Rates should be abolished: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows—

"1. From and after the passing of this Act, no Church Rate shall be made or levied in any Parish in England or Wales."

Now, so far as that goes, I agree with the statement in the preamble, and I think it desirable, not specially for the sake of the Dissenters or of the Church, but for the sake of the community generally, that some remedy for this should be found. The whole dispute at the present day is not with regard to the evil, and to the social calamity, caused by church rates, but with respect to the remedy we should apply. Now, I have spoken of those ancient churches which were intended for all. The Dissenters, however, have left those churches. They have their own places of worship—erected according to their wants—large where there is a large congregation, small where there is a small congregation, but in no instance requiring those expensive repairs which are necessary when you have an ancient building with a great

deal of ornamental architecture, and erected of a size not in proportion to the wants of the particular congregation, but such as the whole parish necessarily requires. Well, the theory of the law is, that the parish is bound to repair that church; the practice of the law—and it is one for which there is no remedy—is, that a majority of the parishioners may refuse the church rate. The remedy proposed by the hon. Baronet (Sir W. Clay) for the existing state of things is to abolish church rates altogether. Now, I do say that in that case a hardship will be imposed upon those who attend church. They have not, like Dissenters, built places of worship to suit their own wants; and it certainly appears to me that if the existing parochial churches are left without some means of legal support, it will, in the first place, be inconsistent with the principle of an Established Church, and in the next place it will throw a hardship upon those who attend church. There are, however, various remedies suggested. One is that there should be a voluntary collection on behalf of the church. Now I think that in many parishes that voluntary collection would not be sufficient; I think it is possible that if a voluntary collection were made over the whole kingdom, sufficient means would be raised for the repair of the fabrics of the churches. But then comes the question to which my right hon. Friend the Chancellor of the Exchequer adverted—that when that money was collected, every person who belonged to the parish, whether they had contributed to it or not, whether they attended the Established Church or some other place of worship, would have a right to a voice in the disposal of the money so collected. There, again, is a case of hardship to the Church. Then it is proposed to separate Dissenters from others, and to make all contribute to church rates who do not declare themselves Dissenters. To that, however, I must strongly object. Another method proposed is to levy pew-rents. I think that objectionable in the first place, because it would be repugnant to the feelings of the agricultural population generally, who have ever been accustomed to enter a church as a free and open place of worship. Besides, I think the poor especially would have a right to complain if you establish pew-rents. My right hon. Friend the Chancellor of the Exchequer has stated another plan, which I think was not quite understood by the hon. Member for Manchester (Mr. Bright), and perhaps

not by the House. I understand his suggestion to be this—that there should be the same power as now of imposing church rates, and that that rate should continue to be imposed in the rural parishes, because the great majority there approve of the principle of church rates. It would not, however, be imposed there for ever, but in those parishes as well as in others, the parishioners would have the power of acting either according to the old or according to the new law. When, however, they decided to act according to the new law and not to levy rates, there would be a provision that those alone who contributed to the repairs of the church should have the disposal of the funds raised for that purpose. There is one principle, indeed, to which I think the House should adhere in any legislation on this subject. Whatever plan may be proposed, I think we should retain for the Church, or rather for the nation, the principle of calling upon the land to maintain the parochial churches in repair. Sir, I consider these edifices not as belonging to a sect, but as national property; and so considering them, I think they should be inseparably connected with the land, by which the Church has hitherto been supported. I believe that it would be the worst possible policy on the part of the land to consent to any law by which we should incur any hazard that our village churches should fall into decay. Such is the principle which, as against my hon. Friend (Sir W. Clay), I am disposed to maintain. The hon. Gentleman the Member for Manchester says, in opposition to this principle, that great effects have been produced by the voluntary principle in the United States of America. I am not disposed to question that assertion. I know that great effects have been produced by the voluntary principle alone in the United States of America. I know that great effects have been produced in this country by the voluntary principle, in connection with the principle of an Established Church. The institutions of the United States are, however, wholly different from ours. While they adopt the voluntary principle as to the Church—while they have universal suffrage—while they have no primogeniture as to the land—and while they have an elective Senate and an elective President, all their institutions harmonise together and produce a free and great nation, whose greatness and whose freedom I should be the last to question and the first to respect. But in this country we have other institu-

tions. We have a national Church—we have an hereditary aristocracy—we have an hereditary monarchy, and all these things stand together. My opinion is, too, that they would decay and fall together. I see no reason why we should prefer to these institutions those of the United States of America; and I must, therefore, oppose this Bill, as, in my opinion, tending to subvert one of the great institutions of the State.

SIR WILLIAM CLAY briefly replied.

Question put, "That the word 'now' stand part of the Question."

The House divided :—Ayes 182; Noes 209: Majority 27.

#### List of the AYES.

Adair, H. E.	Duncombe, T.
Aglionby, H. A.	Dundas, F.
Alcock, T.	Dunlop, A. M.
Anderson, Sir J.	Ellice, rt. hon. E.
Bailey, C.	Ellice, E.
Ball, E.	Esmonde, J.
Ball, J.	Ewart, W.
Barnes, T.	Feilden, M. J.
Bass, M. T.	Fergus, J.
Beamish, F. B.	Fitzgerald, W. R. S.
Bell, J.	Forster, C.
Bellew, T. A.	Fox, W. J.
Berkeley, hon. H. F.	Freestun, Col.
Berkeley, hon. C. F.	Gardner, R.
Biddulph, R. M.	Gibson, rt. hon. T. M.
Biggs, W.	Glyn, G. C.
Blackett, J. F. B.	Gower, hon. F. L.
Bland, L. H.	Greene, J.
Bonham-Carter, J.	Gregson, S.
Bouverie, hon. E. P.	Grenfell, C. W.
Brady, J.	Greville, Col. F.
Brand, hon. H.	Grey, R. W.
Bright, J.	Grosvenor, Lord R.
Brooklehurst, J.	Hadfield, G.
Brockman, E. D.	Hall, Sir B.
Brotherton, J.	Hankey, T.
Brown, H.	Hastie, Alex.
Butler, C. S.	Hastie, Arch.
Byng, hon. G. H. C.	Headlam, T. E.
Caulfield, Col. J. M.	Heywood, J.
Challis, Mr. Ald.	Heyworth, L.
Chambers, M.	Hindley, C.
Chaplin, W. J.	Horsman, E.
Cheetham, J.	Howard, hon. C. W. G.
Clifford, H. M.	Hutchins, E. J.
Cobbett, J. M.	Hutt, W.
Cobden, R.	Ingham, R.
Coffin, W.	Jackson, W.
Collier, R. P.	Keating, H. S.
Cowan, C.	Kennedy, T.
Craufurd, E. H. J.	Kershaw, J.
Crook, J.	King, hon. P. J. L.
Crosley, F.	Kinnaird, hon. A. F.
Currie, R.	Labouchere, rt. hon. H.
Dashwood, Sir G. H.	Langton, H. G.
Davis, Sir H. R. F.	Laslett, W.
Denison, J. E.	Layard, A. H.
Dent, J. D.	Lee, W.
Divett, E.	Lindsay, W. S.
Duff, G. S.	Locke, J.
Duke, Sir J.	Lucas, F.
Duncan, G.	Mackie, J.

Lord J. Russell

M'Cann, J.	Seobell, Capt.
M'Mahon, P.	Scrope, G. P.
Maguire, J. F.	Scully, F.
Mangles, R. D.	Scully, V.
Martin, J.	Seymour, Lord
Massey, W. N.	Seymour, H. D.
Miall, E.	Seymour, W. D.
Milligan, R.	Shelley, Sir J. V.
Milner, W. M. E.	Sheridan, R. B.
Mitchell, T. A.	Smith, J. A.
Moffatt, G.	Smith, J. B.
Monck, Visct.	Smith, M. T.
Morris, D.	Smith, rt. hon. R. V.
Mostyn, hn. T. E. M. L.	Strickland, Sir G.
Muntz, G. F.	Strutt, rt. hon. E.
Murrough, J. P.	Stuart, Lord D.
Norreys, Lord	Swift, R.
Norreys, Sir D. J.	Tancred, H. W.
O'Brien, Sir T.	Thicknesse, R. A.
O'Brien, C.	Thompson, G.
O'Connell, J.	Thornely, T.
Otway, A. J.	Tomline, G.
Pechell, Sir G. B.	Traill, G.
Pellatt, A.	Tynte, Col. C. J. K.
Perry, Sir T. E.	Vane, Lord U.
Phillimore, J. G.	Vivian, J. H.
Phinn, T.	Vivian, H. H.
Pigott, F.	Walmsley, Sir J.
Pilkington, J.	Walter, J.
Pinney, W.	Warner, E.
Ponsonby, hon. A. G. J.	Wells, W.
Potter, R.	Whitbread, S.
Ramaden, Sir J. W.	Wickham, H. W.
Ricardo, J. L.	Wilkinson, W. A.
Ricardo, O.	Willcox, B. M.
Rice, E. R.	Williams, W.
Rich, H.	Winnington, Sir T. E.
Robartes, T. J. A.	
Roebuck, J. A.	
Russell, F. C. H.	
Scholefield, W.	

#### TELLERS.

Peto, S. M.  
Clay, Sir W.

#### List of the NOES.

Acland, Sir T. D.	Christopher, rt. hn. R. A.
Adderley, C. B.	Clinton, Lord C. P.
Alexander, J.	Clive, R.
Archdall, Capt. M.	Cobbold, J. C.
Arkwright, G.	Cocks, T. S.
Bailey, Sir J.	Codrington, Sir W.
Banks, rt. hon. G.	Coles, H. B.
Barrington, Visct.	Colville, C. R.
Beckett, W.	Compton, H. C.
Bentinck, G. W. P.	Conolly, T.
Beresford, rt. hon. W.	Coote, Sir C. H.
Blair, Col.	Corry, rt. hon. H. L.
Blandford, Marq. of	Cowper, hon. W. F.
Bramston, T. W.	Cubitt, Mr. Ald.
Bruce, Lord E.	Davies, D. A. S.
Buck, L. W.	Davison, R.
Buckley, Gen.	Dering, Sir E.
Burghley, Lord	Disraeli, rt. hon. B.
Burrell, Sir C. M.	Dod, J. W.
Butt, G. M.	Duckworth, Sir J. T. B.
Cabbell, B. B.	Duncombe, hon. A.
Cairns, H. M.	Duncombe, hon. O.
Campbell, Sir A. I.	Dunne, Col.
Cardwell, rt. hon. E.	East, Sir J. B.
Carnac, Sir J. R.	Egerton, Sir P.
Cavendish, hon. C. C.	Egerton, W. T.
Cavendish, hon. G.	Egerton, E. C.
Cayley, E. S.	Elcho, Lord
Cecil, Lord R.	Elliott, hon. J. E.
Child, S.	Elmley, Visct.

Evelyn, W. J.  
 Farnham, E. B.  
 Farrer, J.  
 Fellowes, E.  
 Ferguson, Sir R.  
 Filmer, Sir E.  
 Floyer, J.  
 Follett, B. S.  
 Forbes, W.  
 Frewen, C. H.  
 George, J.  
 Gilpin, Col.  
 Gladstone, rt. hon. W.  
 Gladstone, Capt.  
 Goddard, A. L.  
 Gooch, Sir E. S.  
 Gore, W. O.  
 Graham, rt. hon. Sir J.  
 Granby, Marq. of  
 Greenall, G.  
 Greene, T.  
 Grogan, E.  
 Gwyn, H.  
 Hale, R. B.  
 Halford, Sir H.  
 Hamilton, G. A.  
 Harcourt, Col.  
 Hardinge, hon. C. S.  
 Hayter, rt. hon. W. G.  
 Heathcote, Sir G. J.  
 Heathcote, G. H.  
 Heathcote, Sir W.  
 Heneage, G. H. W.  
 Heneage, G. F.  
 Henley, rt. hon. J. W.  
 Herbert, Sir T.  
 Hildyard, R. C.  
 Hogg, Sir J. W.  
 Horsfall, T. B.  
 Hotham, Lord  
 Hudson, G.  
 Hughes, W. B.  
 Jermyn, Earl  
 Johnstone, si  
 Jolliffe, Sir W. G. H.  
 Jones, Capt.  
 Kendall, N.  
 Knightley, R.  
 Knox, hon. W. S.  
 Lacon, Sir E.  
 Langton, W. G.  
 Lascelles, hon. E.  
 Legh, G. C.  
 Lemon, Sir C.  
 Lennox, Lord A. F.  
 Lennox, Lord H. G.  
 Leslie, C. P.  
 Liddell, H. G.  
 Lindsay, hon. Col.  
 Lisburne, Earl of  
 Lockhart, W.  
 Lovaine, Lord  
 Loveden, P.  
 Lowther, hon. Col.  
 Luce, T.  
 Lytton, Sir G. E. L. B.  
 Macartney, G.  
 MacGregor, Jas.  
 Malins, R.  
 Mandeville, Visct.  
 March, Earl of  
 Masterman, J.  
 Maunsell, T. P.  
 Meux, Sir H.  
 Miles, W.  
 Milnes, R. M.  
 Michell, W.  
 Montgomery, Sir G.  
 Morgan, O.  
 Mowbray, J. R.  
 Mullings, J. R.  
 Mundy, W.  
 Naas, Lord  
 Napier, rt. hon. J.  
 Neeld, John  
 Neeld, Jos.  
 Newark, Visct.  
 Newdegate, C. N.  
 Newport, Visct.  
 Noel, hon. G. J.  
 North, Col.  
 Oakes, J. H. P.  
 Ossulston, Lord  
 Packe, C. W.  
 Pakington, rt. hn. Sir J.  
 Palmer, Rob.  
 Palmer, Roun.  
 Parker, R. T.  
 Patten, J. W.  
 Peel, Col.  
 Pennant, hon. Col.  
 Percy, hon. J. W.  
 Philipps, J. H.  
 Phillimore, R. J.  
 Portal, M.  
 Powlett, Lord W.  
 Pritchard, J.  
 Robertson, P. F.  
 Rolt, P.  
 Russell, Lord J.  
 Sawle, C. B. G.  
 Scott, hon. F.  
 Shirley, E. P.  
 Smijth, Sir W.  
 Smith, A.  
 Somerset, Capt.  
 Sotherton, T. H. S.  
 Spooner, R.  
 Stafford, A.  
 Stanhope, J. B.  
 Starkie, Le G. N.  
 Stuart, H.  
 Taylor, Col.  
 Thesiger, Sir F.  
 Tollemache, J.  
 Trollope, rt. hon. Sir J.  
 Tudway, R. C.  
 Tyler, Sir G.  
 Vance, J.  
 Vane, Lord A.  
 Vernon, G. E. H.  
 Villiers, hon. F.  
 Vyvyan, Sir R. R.  
 Waddington, D.  
 Waddington, H. S.  
 Walcott, Adm.  
 Walpole, rt. hon. S. H.  
 Walsh, Sir J. B.  
 Waterpark, Lord  
 Welby, Sir G. E.  
 West, F. R.  
 Whitmore, H.  
 Wigram, L. T.  
 Willoughby, Sir H.  
 Wrightson, W. B.  
 Wyndham, H.

Wynn, Lieut. Col.

Yorke, hon. E. T.

Young, rt. hon. Sir J.

TELLERS.

Goulburn, rt. hon. H.

Liddell, hon. H. T.

Words *added*; Main Question, as amended, put, and *agreed to*.

Second Reading *put off* for six months.

The House adjourned at ten minutes before Six o'clock.

## HOUSE OF LORDS,

Thursday, June 22, 1854.

MINUTES.] PUBLIC BILLS.—1<sup>st</sup> Customs Duties (Sugar and Spirits); Ecclesiastical Courts; Bleaching, &c. Works.  
 2<sup>nd</sup> Incumbered Estates (West Indies).  
 3<sup>rd</sup> Episcopal and Capitular Estates Management, 1854; Customs Duties.

### BREACH OF PRIVILEGE.

THE MARQUESS OF CLANRICARDE rose to call the attention of their Lordships to matters which involved a breach of privilege. He trusted that they would consider that he was justified in doing so before they went into the Orders of the Day. The breach of privilege was involved in a return which was ordered, on the Motion of Earl Grey, on the 7th of April. It would be in the recollection of the House that on the 7th of April Earl Grey made a very remarkable speech on the interesting subject of the administration of the Army, and concluded by moving for the production of certain returns. Their Lordships would also recollect that the noble Lord (Earl Grey) went into the subject very extensively, and that his speech attracted great attention, not only in this House, but throughout the whole country, and he (the Marquess of Clanricarde) thought that it might be said to have been a very useful and effective speech. But it appeared that this speech had given offence to certain subordinate individuals employed by the Government, and from this arose the irregularity in the return of which he complained. He apprehended that, when a noble Lord moved for a return of any correspondence or official papers, such a Motion must be naturally confined and directed to papers in existence when the return was ordered; and though, undoubtedly, there might be a difference in the cases in which, by Acts of Parliament, certain public bodies and functionaries were ordered to lay before Parliament, at stated times, returns, accounts, and reports, yet he apprehended that no deviation could be made in the case

of returns ordered to be issued from the office of the Secretary of State, so as to include anything beyond the date when the Motion was made. It would be impossible for the House to entertain such a Motion as that the correspondence of the Secretary of State for the future as well as of the past, should be produced to Parliament;—such a Motion would, he considered, be an encroachment on the prerogative of the Crown, and it would also be impossible for any Ministry to accede to such a Motion. It was perfectly clear that in this particular case, it was not the understanding or intention that the usual rule should be departed from, of producing those documents only having reference to the subject of Earl Grey's Motion, which were in existence at the time that Motion was made. The Motion of the noble Earl was an Address for a return of copies of any correspondence between the different departments of Her Majesty's Government, with respect to any additions which might have been made to the department of the Secretary of State for War and the Colonies; and, also with regard to any changes which had been made in the transaction of business relating to the administration of the Army. Their Lordships would perceive that this correspondence was under two heads, and the return had accordingly been so made. As to the first head, respecting the correspondence as to the additions made to the department of the Secretary of State for War and the Colonies, the return contained five papers, the last of which was dated on the 2nd of April, and this correspondence ended, very properly, at the time when the Address was voted by this House. He might regret that the return ended at this date, as the subject was very interesting to the House, and he hoped that they would soon have the whole of the correspondence laid before them which related to the office of a fourth Secretary of State and the division of business which had taken place with respect to the administration of the Army, consequent upon the establishment of a fourth Secretary of State; but yet it was right that the return had stopped with the correspondence dated the 7th of April. Their Lordships, would, however, be surprised to find, when they came to the second head, under which the return was made, to find that there were, in the ten papers of which the return consisted, no less than three of the most important dated subsequent to the day on which the return was

*The Marquess of Clanricarde*

ordered; and that the whole of these papers, from the way in which they were numbered and laid before the House, were avowedly and declaredly, as well as in substance, an answer to the speech made by Earl Grey. He (the Marquess of Clanricarde) thought that it was contrary to the privilege of this House, contrary to decorum, and offensive to the dignity of the House, that a subordinate officer of the Government, when a return was ordered, instead of confining himself to his duty in preparing the return as ordered, should occupy himself in preparing an answer to a speech, and then deliver it in the way of a return to this House of Parliament. He knew that certain public functionaries, Commissioners, and others, frequently in their Reports noticed transactions and debates which had taken place in Parliament, with a view of correcting errors which might have arisen; but the debates referred to were those of past Sessions; but these being Reports made to the Crown on their duties, by those who executed them, were different to the case of a return ordered for a specific purpose, and limited to a certain object. He thought that he need not point out to their Lordships that this was a matter which might be a breach of privilege, and that it was not only in derogation of the dignity of this House, but that it might be very inconvenient as a precedent, if it were to be established as such. The House would be at once convinced of the justice of the complaint, if he read a few lines from the second return. The first paper under the second head of the return was the copy of a letter from Sir C. Trevelyan to the Duke of Newcastle. It was dated from the Treasury on the 9th of May, Lord Grey's Motion having been made on the 7th of April, and in it would be found the following statement—

“ My Lord Duke,—The officers of the Commissariat feel that that branch of the public service has been unjustly dealt with in a recent debate in the House of Lords.”

He thought it would be difficult for their Lordships to find any document so commencing introduced in any return to this House. The avowed intention of the noble Earl (Earl Grey) was to condemn the existing system by the exhibition of its pernicious results; so that, if any of their Lordships thought proper to propose a change in the Administration of the State, he must be prepared to have his speech answered, not by the Minister re-

sponsible for the conduct of such a department, but by a letter addressed to the Minister by a subordinate in the department, to be laid upon the table of the House in a return. The letter to which he alluded might have formed a very good brief for a speech to be made by a Minister on a subsequent Motion; nor would there have been any objection to such a letter, a little corrected in its wording, being laid before the House; but he complained of its being included in a return ordered to be made a month before the letter was in existence. The letter went on to say that, since 1840, several improvements had been made in the Commissariat Department, and then it stated that—

“We think it hard to be held up to our countrymen as a helpless body in administering a department on which the success of the Army depends. I beg to be forgiven for giving the following instances in support of what I have stated.”

He had read this to show the way in which the return had been framed in order to support the statements of the writer in answer to Earl Grey's speech—a purpose which was evidenced by the fact, that, though some of the papers were dated as early as February, the first paper given was dated the 9th May. The House must see that such a course was not only inconvenient, but wholly unjustifiable in the present instance; for, though he was not there to defend Earl Grey, yet he must say in that remarkable and powerful speech the noble Earl referred to every branch of the administration of the Army, and only referred to the Commissariat as a considerable branch of that service, and he commenced his speech by saying that he had not made an attack on individuals, but on the system; and he closed his remarks by saying that though many of the individuals under the system were eminent and praiseworthy men, yet it was impossible such a system could be well administered, however praiseworthy and eminent might be the individuals employed. If the contrary, however, were the case, it would be no excuse for the course pursued; for this was not a question between Sir C. Trevelyan and Earl Grey, but one between the House and the department of the Government bound to furnish the returns ordered by the Crown in consequence of an address from this House. He did not know how this matter should be dealt with, and would rather leave it to their Lordships to decide; but it seemed

to him that if such a case were allowed to become a precedent, it would be a very mischievous one, as well as derogatory to the dignity of that House.

THE DUKE OF NEWCASTLE said, that his noble Friend had objected to the return on two grounds—firstly, because it contained papers dated subsequently to the day on which the return was ordered; and secondly, on the ground of a supposed breach of privilege of the House, by reference to the notice which had been taken of the debate that had occurred in that House. As to the first objection—as to some of the papers being dated subsequent to the day on which the Motion was made—undoubtedly, if they adhered to the strict rule in such cases, an irregularity had been committed; but at the same time he had reason to believe, though he had not had time to look back for precedents, that such a course was not without precedents in that House, and he was sure that it was not without precedents as regarded the other House of Parliament. This partly arose from the fact that returns would be very imperfect unless such a course were sometimes followed. The noble Marquess had referred to the first part of the return, which contained a paper of the 7th April, the very day the Motion was made, and observed that that was very proper; but supposing the Motion had been made on the preceding day, the 6th April—would it not have been exceedingly inconvenient that the letter of the 7th April, completing the correspondence, should have been omitted? Although the course might not be strictly correct, for the sake of convenience the rule was departed from, and he had reason to believe it was not of unfrequent occurrence. As regarded the second and more important objection, he was in a position to be enabled to state the whole of the facts with reference to that occurrence. The Parliamentary returns from the Colonial Office were, as everybody knew, very voluminous in every department, and much more so than was desirable for the convenience of Parliament, with a view to its being read, or the economical expenditure of the public money. The officers in that department were consequently so overworked that it was impossible for them to keep up with current orders of this House during the Session. The order for this correspondence was sent to the Colonial Office, and in the Colonial Office the returns were made up; but, in consequence

of the press of business, they were not made up when ordered, but, speaking from recollection, in the following month of May. The clerk, therefore, who made the return, having collected the papers having reference to it from the various officers, put them all together for his (the Duke of Newcastle's) approval previous to their being laid before the House; and he would, therefore, take upon himself the blame and the responsibility of having allowed them to be presented in the return. The responsibility of having written these papers did not attach to him, but as far as laying them on the table he admitted his responsibility, and he admitted they contained matter of very questionable propriety. He would tell their Lordships the ground on which he had thought they should be laid on the table. He admitted that at the time it had appeared to him to be a matter of questionable propriety, for he at once saw that a reference to debates in that House was an irregularity. If these documents, therefore, had entered into questions of policy, or had attempted to refute the general positions of Earl Grey, or of any other Member of the House, he should at once, and without the slightest hesitation, have refused to place them upon the table, however aggrieved the parties must have felt themselves by that refusal. When he read the letters, however, from Mr. Filder and Mr. Weir, he perceived that they felt that the observations of Earl Grey reflected, not upon the system of which they had been the instruments, but upon themselves; and their Lordships would find that Mr. Filder and Mr. Weir were the officers executing the particular duties in the Colonies at the time which was referred to by Earl Grey. The question, therefore, became one of a personal character; and, considering that those letters had been sent in by two gentleman who were absent from this country, and to whom, therefore, he could not express any suggestion that they should not be laid upon the table of the House, he had decided that, in justice to those gentlemen, it would be better, on the whole, that they should be laid before their Lordships. As a test whether Earl Grey had a right to complain, he had applied the case to himself, and had asked whether, if he had made a speech in that House accusing any gentleman in the public service, he would refuse to them the opportunity of stating their own case to the public, and he certainly had felt that he

*The Duke of Newcastle*

could not have done so. No doubt, any reference to the debates in that House, either upon the part of individuals or of the press, was a breach of their Lordships' privileges; but he was sure that they would not forget that it was a breach of privilege carrying with it no moral offence, and that it was one which was committed daily in all quarters of the country, not only by the press, but also by individuals. When he said he should have taken the same course himself, he would state that a somewhat similar case had occurred to himself not long ago, when he answered a question which had been put to him by the noble Earl (the Earl of Derby), with respect to the name of the contractor who had supplied some bad hay to the troops going abroad. Having obtained the name from a friend at the bar of the House upon the instant after the question had been pressed upon him, he gave it. The next morning he received a letter from the gentleman whose name he had given, strongly, but most courteously and most justly, complaining of the injustice which had inadvertently been done to him by his name, which was not that of the real party, having been given. Did their Lordships suppose that he had told that gentleman that he had committed a breach of the privileges of that House by writing that letter to him? Certainly not; and yet that was as much a breach of privilege as had been committed in the present case by these gentlemen having addressed letters to Sir Charles Trevelyan. What he had done upon that occasion was this—he went down to the House the next evening, and stated that, to his extreme annoyance, he had given a wrong name, and he explained to the House all the circumstances. Those were the facts connected with this case. He did not at all pretend that there had not been a technical breach of privilege; but he thought the House would agree with him that it was a matter for serious consideration whether, in the case of two gentlemen who were absent on public duty, and felt themselves aggrieved, and who were entitled to address letters on the subject, he should have withheld these letters, pertinent as they were to the subject to which the Motion referred.

THE EARL OF DERBY thought that the case of the hay contractor was entirely different from the present. Not disputing the hardship which might occasionally arise to individuals from their conduct being called into question in that House, when they

had no opportunity of making a defence, he could not help thinking that the noble Duke would have done better if, instead of the course which he had taken, he had adopted that which he had pursued in the case of the hay contractor, and had gone down to the House, and, in his own character as a Member of the House, had stated that he had received explanations which, in his place in Parliament, he was ready verbally to communicate. Their Lordships would see that nothing could be more different than the case of such an explanation so given by the Minister, whose voice was the proper organ for their defence on the part of the person aggrieved, and the course which had been pursued in the present case, when private letters were in the first instance addressed to a subordinate officer of the Government—when that subordinate officer gave to those letters a public character by accompanying them with comments of his own—and by officially sending them in to a public department—and when he finally obtained the sanction of a Minister of the Crown to lay that correspondence, with comments upon a discussion which had taken place in that House, upon their Lordships' table. The noble Duke had stated that this had been a matter of consideration with him, and that, as it related to private individuals, he had thought it desirable to lay the documents upon the table, even at the risk, as the noble Duke had said, of "technically" violating the privileges of the House. He (the Earl of Derby) contended that this was more than a technical violation of the privileges of the House, and that it was one which, if sanctioned by the Ministers and not remarked upon by the House, would lead to the most serious inconvenience, and not improbably might greatly endanger the freedom of speech in that House, which was so essential to the proper discussion of matters brought before their Lordships' attention. The noble Duke treated it as a mere technical breach of privilege, the strict observance of which would have been attended with inconvenience; but that inconvenience might easily have been obviated by an oral statement. The return, in its present shape, was most objectionable, and he could not but regret that such letters should have been written, and still more that they should have been issued in so authentic a form, and with the sanction of the Government.

EARL FITZWILLIAM agreed with the noble Earl who had just spoken that it was

not merely a technical breach of privilege, but a very serious one, if Her Majesty's Ministers, in giving what they professed to be a return, laid an argumentative paper upon the table proceeding from some inferior officer, and written subsequent to the return being ordered. He confessed, on looking at these papers, that he could not but entertain some little curiosity to see the letters to which those that had been published were the answers; because it was quite clear to him that these commissaries must have something else to do than to read the accounts in the *Times* of their Lordships' debates, and that they had not been made acquainted with those debates and with the speech of his noble Friend on the 7th of April merely through the medium of the public papers. It was quite clear that there must have been some other communication with those gentlemen, and he should be inclined to move for a copy of that communication, unless the noble Duke the Secretary for the War Department would acquiesce in the suggestion that the papers should be withdrawn from their Lordships' table, and the return placed there in an amended form.

THE DUKE OF NEWCASTLE said, that as this was a matter which entirely affected the concerns of their Lordships' House it was not one for the Government to take any course in; and if it were the general opinion of the House that the paper ought to be withdrawn, he could only say, upon his own part, and on the part of the Government, that he should not have the slightest objection to it. Perhaps his noble Friend would make a Motion that the paper be withdrawn.

THE EARL OF ELLENBOROUGH: The noble Earl cannot make a Motion of that sort with respect to a return which has been presented in reply to an Address to the Crown.

THE DUKE OF NEWCASTLE said, that that of course was a matter of form which must be attended to. All he said was, on his own behalf and on behalf of the Government, and admitting the responsibility which attached to himself, that no opposition should be made to any Motion which might be considered desirable in order to vindicate the privileges of their Lordships' House. His noble Friend had stated that no formally personal attack had been made upon those two gentlemen. He readily admitted it; but that was a subject upon which those gentlemen must be allowed to feel for themselves, and it must be re-

membered that they were the gentlemen who had had the discharge of the public duties in question at the time of the transaction to which the noble Lord had referred, and that they felt, in consequence, that their characters were at stake. His noble Friend on the cross-benches (Earl Fitzwilliam) had stated that it could be distinctly seen that the letters from Mr. Filder and Mr. Weir were answers to communications which had been sent from home. All he (the Duke of Newcastle) could say was, that if they were as represented by his noble Friend, he knew nothing about it. He had never called for any explanation from any human being, and he had been no party to any such transaction, if it had taken place. He had seen nothing of them until they were communicated in an official form by the Treasury to the Colonial Office.

LORD PANMURE reminded their Lordships that he had taken part in the debate upon the 7th of April, when these returns were moved for, and had urged the Government to take some steps whereby the management of the Commissariat should be removed out of the hands of the Treasury and placed under the control of the Secretary of State for War. He thought that a most clear proof was now afforded that the sooner they did that the better, because it appeared from these papers that Sir C. Trevelyan was, *de facto*, the head of the Commissariat Department, while the real head of the Treasury did not appear to have anything to do with the matter. There was sufficient to induce their Lordships to ask the Government to arrange, without delay, for the new Secretary of State for War taking charge of those departments which belonged to the administration of the Army. If that were done, there would always be a high officer in the House ready to stand forward in defence of his subordinates if their conduct were impugned, and there would be an end to inferior officers interfering and commenting, as Sir Charles Trevelyan had thought proper to do, upon debates taking place in their Lordships' House, with which he had no concern.

THE EARL OF ELLENBOROUGH said, that it was inconvenient, when they were dealing with a question of privilege that they should travel into the much wider and not less important question of what ought to be the duties of the Commissariat. He was of opinion that the proposal to withdraw the paper was a very proper one;

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but it should rest with the noble Duke himself to withdraw it, inasmuch as it had been laid upon the table by him in reply to an Address to the Crown. It was a very important question as a matter of privilege, and the inconvenience would, he was convinced, be found to be very great if papers were presented as returns to an Address of a date subsequent to the date of the Address. If other papers should be discovered which had a bearing upon the subject, but which were of a date subsequent to the order, the proper course would be to make a supplementary order, whereby the whole object would be attained without being open to any objection. It would be extremely inconvenient, however, to admit, as a precedent, when papers were ordered relating to a particular department, that they should be altogether of a prospective character.

THE DUKE OF NEWCASTLE said, that as the feeling appeared to be so general, he had no hesitation in stating that he would, with the least possible delay, lay upon the table of the House an amended return in substitution of the present one.

#### INCUMBERED ESTATES (WEST INDIES) BILL.

Order of the Day for the Second Reading read,

THE DUKE OF NEWCASTLE: My Lords, in moving your Lordships to give a second reading to this Bill for facilitating the sale and transfer of Incumbered Estates in the West Indies, it is hardly necessary for me to call your attention to the fact that no new principle of legislation is involved in the measure; but that, on the contrary, in proposing it, the Government are now only following out a measure which has been passed for some years, and has been extensively applied in another portion of the empire, and which I think your Lordships will agree with me has been attended with very considerable success. Soon after the seals of the Colonial Office were placed in my hands, my attention, as undoubtedly had been that of my predecessors, was directed to the misfortunes of many of the West Indian Colonies, to the causes of those misfortunes, and to such remedies as it might be in the power of Parliament to apply to them. In the course of the last Session of Parliament I had the honour of laying before your Lordships a statement with reference to the island of Jamaica and the measures which I thought it my duty to submit to the Legislature of that

island with a view of effecting such a reform in their constitution and in their mode of legislation, as I believed to be an essential preliminary to any other remedies which Parliament could devise for the evils under which that important Colony laboured. I am happy to state to your Lordships that before I left the Colonial Office I received from the Governor of Jamaica a despatch, sending home ordinances for confirmation by Her Majesty, which carry out, to a very great extent, that reform of the constitution which I had suggested—ordinances which, if they do not effect everything that could be desired, at least make such prudent alterations, and introduce so novel and so amended a form of legislation, as lead me to hope that in subsequent years the Legislature of the island will be willing to co-operate with Her Majesty's Government and with the Imperial Parliament in passing those further measures which may be considered desirable. I stated at that time to your Lordships that it would be necessary at a future time to introduce other measures bearing upon the condition of this island, and though I did not, I believe, mention the name of the Bill which is now before your Lordships, I certainly referred to it as a measure which I conceived to be essential to the prosperity of the West India Colonies. Before the date of the abolition of slavery, the immense value of West India property, the large production of sugar, and the general thriving state of most of the proprietors in those Colonies, had induced a state of things which has existed in other countries similarly situated—namely, heavy encumbrances effected by means of wills and marriage settlements, to say nothing of the encumbrances in the shape of mortgages, which were effected in spite of the large returns from the properties and the general prosperity that prevailed. Causes which have operated since the period of emancipation have, I am afraid, considerably increased the encumbrances—at any rate that class of them to which I have referred under the head of mortgages. Large advances have been made for carrying on the business of those Colonies by merchants and others, and the result is that many of the estates are heavily, and some of them, I fear, inextricably encumbered. I have been told that in the island of Jamaica alone nearly nine-tenths of the estates in the island are under heavy encumbrances; and it is hardly necessary to point out to your Lordships the withering

influence upon the industry and prosperity of the island which such a state of things must necessarily entail; more especially when we bear in mind the additional fact, that a large proportion of those encumbrances are for sums even in excess of the value of the estates. Under such circumstances, whatever may be the position of the proprietors of those estates, it is utterly impossible either for the purpose of the introduction of labour, for the purpose of drainage, or for any other object of improvement, to obtain further advances. Sales are obviously the only remedy for such a state of things; but these unfortunate proprietors are in many instances utterly unable to effect sales. In consequence of the extreme intricacy of the mortgages it is impossible to make out an indisputable title, and unless some cheap and prompt mode of transfer can be devised, the remedy of sale cannot be carried into effect. Your Lordships might perhaps expect that I should not bring forward on the part of Her Majesty's Government any measure of this description without being strengthened by the opinions of those who, from their local experience, would necessarily be better able to form an opinion as to the propriety of such a measure than any Minister or any Government could possibly be. I believe I might, if I were inclined to weary your Lordships, quote plenty of authorities and opinions to strengthen my case. I will name only a few as a sample of the whole. Sir Charles Metcalfe, undoubtedly one of the highest authorities in all matters relating to the island of Jamaica, expressed, as long ago as 1841, his earnest desire that some measure should be introduced to carry into effect those objects to which I have referred, and stated it as his opinion that no wiser or more important measure of legislation could be devised for improving the condition of the West India Islands. I have been in communication also with the West India Association upon this subject; and I believe I am entitled to say that that body, comprising the principal proprietors and merchants connected with the West India Colonies, are most anxious that a measure of this kind—indeed, I may go the length of saying this Bill itself—should be passed by your Lordships and the other House of Parliament. Moreover, before finally deciding upon introducing this measure, I communicated with such officers of the Colonial Governments as I thought were competent to advise me. I had a letter

from Sir Henry Barkly, the Governor of Jamaica, strongly urging a measure of this description, and similar communications have reached me from Mr. Stevenson, an eminent lawyer, for many years a Judge in Jamaica, and now President of Honduras; from Chief Justice Sharp, of the island of St. Vincent; from the Attorney General of Trinidad, and from the Governor of Tobago, all assuring me that Her Majesty's Government could not do anything more calculated to resuscitate many of the West India Islands, more especially Jamaica, than the introduction of a Bill similar to that which I have already stated has been so successful in Ireland. The objects of this Bill are, of course, sufficiently well known to your Lordships from the almost identical provisions of the Irish Incumbered Estates Bill. In the first place, this Bill may be compared, in many respects, to the existing law with respect to bankruptcy. It will undoubtedly operate, with regard to the land in the West Indies, in the same way as the bankruptcy laws affect the personal property of individuals. Another object of equal importance is to effect direct sales, and to distribute the proceeds among the parties entitled to receive them, in the simplest form, and at the cheapest possible rate. The third is a no less important object, and is one without which such a measure would be comparatively valueless—to confer an absolute and indisputable title; inasmuch as the intricacy of existing titles, in consequence of the circumstances to which I have referred, in many cases render the property entirely unavailable. This Bill has been founded upon the forms and precedent of two former Bills—first, and chiefly, the Irish Incumbered Estates Bill; and secondly, more particularly as regards the formation of the Commission, on the Slave Compensation Act introduced by the noble Earl opposite (the Earl of Derby) into the other House of Parliament. I do not mean, of course, that this Bill follows the precedent of the Irish measure in all its details, but its principal provisions are the same, and the alterations which have been introduced are only such as were absolutely necessary in consequence of the difference in the tenure of property in that country and in the Colonies; and also because, though, undoubtedly, we have reason to regret absenteeism in Ireland, yet, as a general rule, we may say that the proprietors of Ireland are, as a class, residents in the country; whereas

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the proprietors of land in the West Indies, and not the proprietors only, but the encumbrancers also, are resident in England. Noble Lords will at once perceive how different the legislation is which is required for such a case, as compared with Ireland. It is necessary that, instead of having, as in Ireland, a court established in the country itself for the adjudication of these cases, you should have a Commission instituted, not merely in the Colonies, but in England also, in order to give an alternative to parties to proceed either there or here, and also to make the proceedings transferable from the one to the other. I have already stated that the form of this Commission is intended to be in many respects like that instituted by the Slave Compensation Act. It is proposed that it should consist of one Chief Commissioner and two Assistant Commissioners; the Chief Commissioner to be, under all circumstances, resident in England, and the two Assistant Commissioners either to act with him in England and to form a court, as provided by some of the clauses of this Bill, or to act under him in the Colonies, either alone, or, if necessary, with local Commissioners, whom it is proposed also to appoint in convenient localities. I hope and believe, however, that it will not be necessary to appoint local Commissioners, but that the Assistant Commissioners will be found sufficient to carry out the provisions of the Act. Another difficulty will at once strike your Lordships when it is mentioned, and that is, that the laws existing in the West India Colonies are not only not similar, but are frequently at variance with each other. As regards the most important of those Colonies, the island of Jamaica, the laws are in most respects assimilated to those of England; but in other Colonies, in Guiana, Trinidad, Martinique, and St. Lucia, for example, the laws, so far from being similar to those of England, more resemble those of Holland, France, and Spain, respectively. It is, therefore, absolutely impossible, as your Lordships will perceive, that in a Bill of this kind distinct regulations could be laid down with reference to the proceedings of this Commission, which should be equally applicable to the varied circumstances of all these different islands. It thus became absolutely necessary to devise some plan by which, without any great violation of principle, due flexibility may be given to the Commission, so that the Commissioners may be enabled to adapt their mode of proceeding to the different laws of each colony.

Therefore the 67th clause—a clause which is peculiar to this Bill, and which is one of the few for which there is no precedent in the measures to which I have referred—provides that in any colony where the laws and customs are different from those of England, the Commissioners shall be entitled to substitute for the provisions of this Act other provisions accommodated to the laws and customs of such colony. I need hardly inform your Lordships that a proviso is inserted that none of those substitutions or alterations shall be contrary either to the general law of England or to the spirit and intention of this particular Act. I am ready to admit that a sufficient safeguard is obviously necessary over a power of this description; but inasmuch as there are but two parties to be affected by the exercise of this power, I hope your Lordships will agree with me that sufficient protection has been afforded by the provision that, as regards the interests of the colonists themselves, any rule or regulation of this description shall be laid before the Legislature of the Colony thirty days before it can be confirmed, and that, as regards the interests of the English proprietors, an Order in Council shall be necessary to confirm such rule or regulation before it has legal validity. Now, I felt that, in introducing a measure of this kind for the Colonies, there was a great principle to be observed, upon which I dwelt in moving your Lordships to give a second reading to a measure relating to the Legislative Council of Canada; and that is, that we ought not, however we may be convinced of the propriety or advantage of any particular measure affecting the interests of distant colonies, to force upon them legislation which for many reasons may be at the time unpalatable to them. I am quite aware that if we, the Members of the Imperial Parliament, were to pass a measure of this description, without giving the parties whose interests are affected a voice in the matter, umbrage would necessarily be given to the Colonies, and we should receive remonstrance after remonstrance in consequence of that violation of a sound principle, to which I for one will never be a party. But if your Lordships will look to the first and last clauses of this Bill, you will perceive that by the joint operation of those two clauses the Bill is carried into execution without any violation of the rights of the colonists themselves, while at the same time we preserve that unity of action which is absolutely necessary,

and which could not be attained if you left to each individual colony the duty of passing a measure of this description for itself without regard to the different interests which might be affected by it. An Order in Council is necessary to bring this Bill into operation in any colony to which it may be intended to apply it; but that Order in Council cannot be obtained unless by an address passed by the Legislature of that colony, and until provision has been made by the Colonial Legislature for the whole expenses to be incurred in carrying the measure into effect. I have already stated that power is taken to appoint local Commissioners under the Act. I believe that they will probably not be required, except perhaps in the more important of the colonies; but the precedent of the Slave Compensation Act having been followed in this respect, I have every reason to anticipate the well working of such a Commission, as I believe no complaint was made with respect to the local Commissioners appointed under the Slave Compensation Act. A power is given in this Bill, similar to the power in the Irish Act, to the Commissioners to frame a code of procedure, to appoint persons to examine witnesses at a distance if necessary, and to prepare other provisions of a comparatively unimportant character, with which it is not necessary to trouble your Lordships, as they are all more or less familiar to you in connection with the practical working of the Irish Act. Those rules of procedure and other provisions of the Commissioners will have, under the 20th clause of the Bill, to be laid before the Queen in Council, who will have the power of refusing to confirm them if any reason adverse to them should exist. I will therefore pass over many of these provisions, which, if not re-enactments, are at any rate applications of existing enactments, believing that it is unnecessary, for instance, to go into any statement with respect to the provisions relative to partitions, changes, divisions, and charges. But I think it is right, more especially as a statement has been made to me upon the subject since I came down to the House by a former Colonial Secretary, that I should call your Lordships' attention to that part of the Bill which provides that neither the encumbrancer nor the proprietor can force a sale against the will of the Commissioners, who have power given to them to bring the property to sale only if they shall see fit. An appeal is given from the proceedings of the Commis-

sioners to the Queen in Council, which, as your Lordships know, is in reality an appeal to the Judicial Committee of the Privy Council, the best security that can be given against any injustice on the part of the Commissioners, at the same time operating as a check upon needless litigation and groundless appeals. The effect of this Bill, if it should become law, I hope will be that litigation will be to a great extent prevented; that as in Ireland so in these Colonies, fresh capital will be introduced by means of the good and indisputable title which will be conferred; that an increase will take place in the number of residents in the different islands—an advantage of no slight importance; and that there will be a corresponding diminution in the number of middlemen agents, attorneys, and others of that class, who at present consume a large proportion of the wealth of the Colonies. Another important effect of this Bill will, I hope, be the subdivision of those large and accumulated estates which, in some of the smaller islands as well as in Jamaica, have been considered by those competent to express an opinion as a very great evil, and one of the main causes of the present degraded state of the population. I hope the subdivision of these large estates will be accompanied by another subdivision, namely, that of the agricultural and manufacturing processes which are carried on at present by some parties on the same estate—a system which I am sure your Lordships will at once perceive is at variance with the best principles of political economy, and likely to end in loss and disappointment. I have no doubt that another result of this will be, that by the sale of these large properties, proprietors of small plots will spring up, and that the emancipated negroes and others, instead of continuing to locate themselves in the mountains, will be more likely to come down to the plains, where their labour will be more valuable, and where I believe there will spring up a class of small proprietors, such as have not yet been seen in any of the West Indian Colonies. I do not, of course, mean to say that this is likely to be an immediate result, or one carried to a very great extent, but I undoubtedly look to it as one of the elements of success in this measure. But this Bill will have another, though perhaps a not very immediate, effect. I stated last Session, in referring to the condition of Jamaica, that out of a population of nearly 400,000 persons, there were but 3,000

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electors in the whole of the island. If the result to which I have referred occurs—namely, the creation of small plots of land—there will be this advantageous circumstance connected with it, that a body of electors will be produced of the best possible persons, those who, having a stake in the soil, must feel a deep interest in the welfare and prosperity of the island. With respect to the opposition with which I have been told the Bill is likely to be met by the legal gentlemen of the Colony, I am aware that due allowance must be made for their feelings in this respect; but I hope that those gentlemen will feel that in the prosperity of the island they are more likely to reap greater benefits than from the exclusive advantages which they have heretofore possessed in the depressed and impoverished condition of the Colony. It may also be objected that, in the present depressed state of many of the West India Islands, the local expenses connected with carrying out the measure are such as ought not to be imposed on the Colony. I believe, however, that in some of the islands the expenses in this respect will be very small. Whatever may be the views entertained by your Lordships with respect to this proposal, it is absolutely necessary that the landed property of the West India Islands should be placed on a sounder and more unencumbered position than that on which it now stands. I do not know whether the House of Commons will consent to any extension of the system of “improvement loans;” but of this I am quite certain, that if these loans are to be rendered effective, they must be granted to individuals who will at least be in a position to pay the interest upon them. A measure such as this is essentially necessary before either any assistance can be given by the Government of this country, or before even any exertions of the occupiers of land in the Colony can be rendered useful and effective. It will be to me a source of great satisfaction in future years to see my anticipations realised, and to know that, before I gave up the seals of the Colonial Office, I was instrumental in launching a measure which I firmly believe will be attended with many of those beneficial results which have already tended so greatly to advance the interests and prosperity of another portion of the empire.

*Moved*, That the Bill be now read 2<sup>a</sup>.

THE EARL OF DERBY said, that he did not wish to oppose the second reading of the Bill, as he believed some measure of

this kind to be absolutely necessary to the relief of the West India proprietors from their present state of depression. He thought, therefore, that no person could object to the principle of the Bill. He understood the noble Duke to say that in framing the Bill the Government had followed as closely as circumstances would permit the provisions of the Irish Incumbered Estates Bill. That measure was an exceptional piece of legislation, and, though its working had undoubtedly been attended with great benefit to the country, that good had not been accomplished, but at the expense of some hardship to individuals, especially in the earlier part of its operations. Some of the clauses of the Bill did not, however, appear to have followed the precedent set by the Incumbered Estates Act. As the Bill at present stood, their Lordships were legislating in the dark as regarded the localities to which it was to be applied; for while reference was made to a schedule in which the places were specified, no schedule was actually attached to the Bill.

THE DUKE OF NEWCASTLE stated, that it was owing to a mistake on the part of the printer that the schedule was not annexed to the Bill.

THE EARL OF DERBY, in reference to the last clause of the Bill, which rendered necessary the assent of the Colony before the Bill could take effect, said, he considered that this provision would amply secure the interests, and independence, and rights of the Colony. He did not agree in the opinion of the noble Duke that the local expenses of carrying out the provisions of the Bill would be small; on the contrary, he thought they would entail a considerable burden on the Colonies. In the 23rd clause there was a most remarkable provision, which certainly did not appear to have been founded upon any existing legislation whatever; it provided that the Commissioners should have the power of sending questions of law to the courts of common law or equity to be tried in this country, but it also provided that the Commissioners should not be bound to act upon such decisions. This was vesting in a body of Commissioners a power for which he could hardly conceive any legislative precedent existed, nor could he conceive what necessity there existed for giving power to apply to a court of law or equity for a decision upon a point of law, if that decision was not to be binding, and the Commissioners were to be at liberty

to set it aside, refer the matter to another court, or disregard it altogether. He was also afraid that, under the operation of the Bill, the proceeds of the sales would be materially affected by the circumstances attending their sale. In Ireland, in many cases, an estate might be brought into the market and sold in one lot, or advantageously subdivided. But in the West Indies, where there was an enormous amount of waste land, the value of the estate did not depend entirely upon that of the land, but upon the necessary works which existed for carrying on the cultivation of the estate. To separate, therefore, a large estate into a number of small fractions, would be to destroy completely the value of the estate. He doubted, therefore, whether the operation of the Bill would be to produce that influx of small proprietors which the noble Duke appeared to anticipate. The effect, indeed, of the subdivisions would be to leave very little of the proceeds of the sale either for the nominal owner or the incumbrancer. As he had already stated he did not object to the principle of the Bill, and trusted that its provisions, carefully considered, would tend to mitigate, to some extent, many of those evils under which the West India Colonies were now suffering.

LORD ST. LEONARDS said, he could not be supposed to object to the principle of an Incumbered Estates Act, but it was very important to consider in what manner it could best be applied to the Colonies of the West Indies. With respect to the objections anticipated by the noble Duke to arise from the legal profession of the Colonies, he thought that, however liberal the local bar might be, they could hardly be supposed as willing to surrender all their private interests without receiving some counterbalancing advantage. Probably there was not a single plantation on some of the islands which was not deeply incumbered. Would the parties resident in the Colony submit to the administration and sale of their property in this country? and might they not fear that their interests would be sacrificed while absent in favour of those present? He feared that such would be the operation of the measure; and if so, it would tend greatly to retard its efficient action. He thought, in the case of Colonies governed by different laws—Dutch, Spanish, French, and others—that the better course would have been, to have prepared a separate measure adapted to the peculiar circumstances of each,

leaving it to the local Legislatures to give effect to such measures. The legislation proposed by this Bill was in effect something like firing a random shot at a hedge without knowing what you might hit. Much as had been the mischief caused at first by the operation of the Incumbered Estates Act in Ireland, still great good had undoubtedly resulted from the measure. At first estates were sacrificed for a very small sum; but soon larger prices were obtained, and upon the whole the Act had certainly worked well for the country. But was there in the West Indies any demand for property, such as that which existed in Ireland, and such as would ensure the sale of the property for anything like an adequate amount? He did not profess to know much of the condition of the West India Colonies, but what he did know had produced a strong conviction in his mind that purchasers could not be found for these estates except at prices utterly ruinous to the owner. He believed that many instances had occurred where estates were sold at a price utterly ruinous to the seller, and at the same time he believed ruinous also to the purchaser. He should certainly not oppose the second reading of the Bill, but he trusted that the details would be carefully considered in Committee.

THE EARL OF POWIS was understood to say that he thought considerable expense and delay would result in the carrying out of the Bill from a constant reference to and from the West Indies and this country. He complained also of the proposal in the Bill that the Chief Commissioner should have power to delegate to one Commissioner alone the power to proceed in any colony with the sale of an estate. He thought this was a power too great to be confided to any one person, whether acting in the colony or in England. He objected, especially to the power given to one Commissioner of summoning persons before him, and compelling them to produce their title deeds and other muniments in writing; such a power ought, he thought, only to be confided to a judicial tribunal. In Ireland, under the Incumbered Estates Act, the acts of two Commissioners were considered necessary, and in the Slave Compensation Act three Commissioners were required to make a *quorum*. Several other matters of detail would also require grave consideration before they were permitted to pass into law.

LORD BROUGHAM said, that, having  
*Lord St. Leonards*

taken part in the opposition to the passing of the Incumbered Estates Act, he felt bound, in fairness and candour to the authors and framers of the measure, to admit that, though many of the difficulties he apprehended had attended the execution of the measure, it had been productive of great good to Ireland, and he entertained great hopes that the judicious extension of the principle to the West Indies would be attended with an equal measure of success. He confessed that he had not yet examined the provisions of the Bill, and his apology for not having done so was to be found in the excessive labour which he had undergone in connection with the morning sittings of their Lordships' House, and that was the sixtieth day in the present Session that he had attended the early sittings on appeals and writs of error. With respect to the objections to be anticipated from the local bar, he thought the objection might be removed if the colonial members of the bar were allowed to practise before the Commissioners in this country, though not of course in the courts to which appeals might be brought. He trusted that the operation of the Bill would tend in some degree to relieve the depression which existed in the West India Islands. With regard to the principle involved in the Bill, he highly approved of it; and although he did not think the circumstances of this country either called for or would admit of the adoption of such a measure, yet he hoped that some means would be taken, even in England, for improving and facilitating the sale and conveyance of land. He indulged the hope that, without applying the principle of the Incumbered Estates Act to this country, some great improvements would be made in the conveyancing and sale of landed property in this country.

THE LORD CHANCELLOR said, in explanation, that after mature consideration it was thought best that the seat of the Commissioners should be in this country, and not in the Colonies, as had been suggested. There was certainly something very captivating in another proposition that had been made—namely, that each Colonial Legislature should be recommended to pass an Act of its own to effect the objects of the present measure. He considered it would be absolutely ruinous to the Colonies for them to take such a step, and for this reason—that, although the land was in the Colonies, the proprietors were in England, and the mortgagees were

here, and those who would in all probability become the purchasers were here. It was, therefore, preposterous to say that the property should be sold in Jamaica, for instance, when they knew that all the transactions connected with the estates in that island took place in this country.

VISCOUNT ST. VINCENT (who was scarcely audible in the gallery) was understood to say substantially that he had no objection to take either to the principle or to the details of the measure, but he wished to remark that the proprietors in some of the West India Islands were so depressed that they were not able properly to cultivate the soil, and that they could not obtain the money from the mother-country or elsewhere to enable them to do so more efficiently on the security which the property in its present condition afforded.

On Question, *Resolved* in the *Affirmative*.

Bill read 2<sup>a</sup> accordingly.

#### LEGISLATIVE COUNCIL (CANADA) BILL.

Order of the Day for the House to be put into a Committee read.

*Moved*, That the House do now resolve itself into Committee.

THE EARL OF DERBY said, he was not present on the second reading of this Bill, but on that occasion he understood that a noble Friend of his (the Earl of Desart) urged upon the noble Duke opposite (the Duke of Newcastle) that full time should be given for the consideration of this Bill, and that it would be desirable to postpone its consideration until certain papers relating to it should be laid on the table of the House. These papers had only been laid on the table within the last two days, and noble Lords could scarcely have had sufficient time to give them their consideration. If his noble Friend would consent now to postpone the Committee on the Bill, he (the Earl of Derby) would be ready to spare the House at that time from listening to the observations which he should otherwise feel it his duty to make in reference to the measure. Upon the second reading of the Bill, which was introduced towards the middle of the present month of June, for giving to the Legislature of Canada power to alter the constitution of that country, a noble Friend of his, formerly connected with the Colonies (the Earl of Desart), requested to know from the noble Duke what was the probable course which the Legislature of Canada would take in the event of the Bill passing into a law. In

consequence of this, after the second reading had been agreed to, the noble Duke laid the papers in question on the table, from which it appeared that the intentions of the Legislature of Canada on the subject had been made known to the noble Duke so long ago as the 11th of July, 1853. Those papers involved propositions for the complete and absolute subversion of the constitution of Canada—he repeated that the propositions of the Legislature of Canada involved an absolute subversion of the present constitution, or in other words, a change from the present form of a limited monarchy into what would be practically an absolutely democratical Government. It might be right or wrong that such a change should take place; but he apprehended that such a change could not take place without the sanction of the British Parliament, and without the fullest opportunity being given for Parliament to discuss so great a measure, and to take into consideration the whole circumstances of the case. The intentions of the Canadian Legislature were known to the Government so far back as the 11th July, 1853, and yet the noble Duke took from that time till the 26th May, 1854, to consider what answer the Government should send to that representation. It was not, however, until after the second reading of the Bill, on the 15th of June, 1854, that Her Majesty's Government—and that not of their own accord, but pressed by the other side of the House—placed Parliament in a position to know what were the intentions of the Legislature of Canada on this important question. Now, before he went further, he would ask the noble Duke whether, that being the state of the information, or rather the want of information, he considered it decent that the Committee on this Bill—it being the first opportunity they had had of discussing any part of it since the intentions of the Canadian Legislature had been made known—should be gone into in a House consisting at that moment of some dozen Members; all those who had hitherto taken an interest in the measure, being absent from a full persuasion that the Bill would not be brought forward again without full notice? He would ask the noble Duke to postpone the Bill for a period of seven days, on the ground that a measure of this importance should not be passed without being fully and completely discussed. If the noble Duke would assent to that postponement, he (the Earl of Derby) would

not say a single word more; but otherwise he should feel it his duty to enter into a full explanation of his views in reference to the important question involved in the Bill, and to ask their Lordships whether they would consent to a measure which proposed to establish nothing else than a republic under the thinnest of all disguises?

THE DUKE OF NEWCASTLE said, he could not help feeling that the noble Earl had said too much or too little, if his object was simply to effect a postponement of the Committee on this Bill. If the noble Earl meant really to obtain a postponement of the Bill, he might have asked him (the Duke of Newcastle) without the violent comments with which he had thought proper to accompany his request. The noble Earl had asked him whether he thought it decent that he should proceed with the Bill to-night, after having given notice that he should bring it on to-night. He would tell the noble Earl that he (the noble Earl) had, himself, every reason to believe that the Committee on the Bill would be taken to-night. He (the Duke of Newcastle) agreed on the evening of Thursday last to produce the papers bearing on the question, and he fixed the Committee on the Bill for to-night. On Monday last the noble Earl on the cross-benches (the Earl of Desart) came across the House to him (the Duke of Newcastle), stating that he was requested by the Earl of Derby to ask, whether it was his intention to proceed with the Committee on the Bill to-night. He replied to the noble Earl in the affirmative, and the noble Earl conveyed the message back to the noble Earl opposite (the Earl of Derby).

THE EARL OF DERBY interposed an observation across the table, that he had understood the answer of the noble Duke to be quite the other way.

THE DUKE OF NEWCASTLE said, he had given the noble Earl (the Earl of Desart) clearly to understand that the Committee on the Bill would be taken to-night; and the noble Earl (the Earl of Derby) having had that due notice, was it, he asked, fair or right that their Lordships should be called on to postpone a Bill of this kind? Again, why was the noble Earl not present on the second reading of the Bill? Why, the noble Earl was then at Ascot; and now, after calling on him to postpone the Bill, the noble Earl proceeded to denounce it, by stating that the Government had introduced a measure to change the whole constitution of Canada, and to

constitute that Colony a republic and a democracy. Now, precisely the same principle was involved in the constitution given to the Cape of Good Hope; and yet the Government of which the noble Earl was the head never objected to it when that measure was under discussion; the noble Earl said, then it was merely a question of time whether that constitution should be given to the Cape whilst the war was pending there, or whether it should be given after the war. Why did not the noble Earl last year, when they were sending that constitution out to the Cape of Good Hope, raise the objection which he had taken to-night, and say that they were sacrificing the monarchy in the case of the Cape, and constituting in that Colony a republic and a democracy? He (the Duke of Newcastle) did not know what could have induced the noble Earl to use the harsh language which he had employed on this occasion. What was the paper which the noble Earl thought he had not had time to peruse before the Committee was taken on the Bill? Why it contained only twenty-four pages, and was laid on the table of the House on Monday last; and, notwithstanding that, the noble Earl complained that he was taken by surprise, and that he had not had sufficient time to consider that document. Again, the noble Earl had made a complete misrepresentation, inasmuch as he had said that the papers which had been laid on the table were received in July last, and that the Government had taken from that time to this to decide whether they would adopt the measures of the Canadian Legislature or not. The noble Earl had entirely confused the dates. The document to which the noble Earl referred was received at the Colonial Office, not in July last, but in February last. This question was undoubtedly not taken up by the Government at the commencement of the Session; but was that any reason why the Government should not endeavour to pass a Bill on the subject before the Session closed? He would tell the noble Earl why it had been delayed. He (the Duke of Newcastle) was anxious to have the fullest concurrence of the Earl of Elgin, the Governor General of the Colony, before he recommended the Government to introduce a Bill of this kind. He was now in a position to state that he had that noble Earl's sanction to this measure; and he could not for a moment think that the Earl of Elgin would be a party to consent to the sacrifice of the monarchy of England, or to the constitution of Canada being

*The Earl of Derby*

changed into a republic or a democracy. He thought it very unfair on the part of the noble Earl (the Earl of Derby) to make the request for the postponement of this Bill in the terms and the manner he had done. It was obviously the intention of the noble Earl, in taking that course, to raise a prejudice against that Bill, for the purpose of taking the benefit of that prejudice on a future occasion. He (the Duke of Newcastle) felt the inconvenience of postponing the Bill at this time, but sooner than allow the noble Earl the pretence for afterwards saying that he had pressed on the measure with anything like undue haste, he would, however unfair and uncandid had been the manner of the noble Earl towards him on this occasion—as indeed it usually was—consent to postpone the Committee on the Bill to that day week.

THE EARL OF DERBY said, the noble Duke had, with very considerable and, as he thought, unnecessary heat, responded to the request that he had made to postpone the Committee on the Bill. He disclaimed the use of any expression which the noble Duke could reasonably construe as being unfair and uncandid towards him. He admitted having said that the noble Duke was acting with indecent haste in pressing forward, after the very short time since the papers in question were laid on the table, a measure of this importance, and when his intention to do so could have been known to only a small portion of the Members of either this or the other House of Parliament. He had read the papers through, and he did not feel that he was guilty of the misrepresentation which the noble Duke supposed. He did not say, however, that the noble Duke and Her Majesty's Government were in possession of the views of the Legislature of Canada, that they were made known to them in July last, and that it was not until June in the present year that those intentions were made known to this House. It was perfectly true, as the noble Duke had said, that the draft Bill was not received in this country until February last; but the despatches which preceded it must have been received long before that time.

THE DUKE OF NEWCASTLE said, the despatches had been laid on the table of the other House of Parliament.

THE EARL OF DERBY: The noble Duke had said it was perfectly well known that he would bring forward this measure to-night. But he (the Earl of Derby) had

every reason to believe that it was not the noble Duke's intention to bring it on to-night. He instructed his noble Friend (the Earl of Desart) a few nights ago, to inquire of the noble Duke when he would proceed with the Committee on the Bill; and all that he (the Earl of Derby) heard in answer was, that it was not the noble Duke's intention to proceed with the Bill until the papers were in the hands of Members.

THE DUKE OF NEWCASTLE: I said expressly that I should bring it forward on Thursday.

THE EARL OF DERBY said, he had a letter from his noble Friend, written on his going from this country to Ireland, stating that he saw with great surprise that the noble Duke had fixed the Committee for Thursday, assuming as a matter of course that he would not bring it on until after full notice was given to Members of this House. Upon a matter of this importance, would it have been too much that their Lordships should have been summoned to attend its discussion? Was this a Bill like the Public Statutes Bill or the Vaccination Amendment Act? He (the Earl of Derby) said this was a great question. The proposed measure made a vast alteration in the constitution of the most important of our Colonies; and it was right and proper that it should be discussed in this House with full notice, with ample preparation, and with a full knowledge of what the consequences of their legislation on the subject might be. With respect to the constitution given to the Cape of Good Hope, and the charge made by the noble Duke that he (the Earl of Derby) did not object to that constitution, which contained a precisely similar principle to that involved in the Bill under discussion, the reason why he did not object was simply because an Act of Parliament had passed sanctioning that principle. But in the case of the constitution for New Zealand, which contained a similar principle, he would remind their Lordships that that principle was resisted, and successfully resisted, by the Government to which he had the honour to belong. He thought their Lordships would agree with him that this was a question which ought not to be discussed in a House of ten or twelve Members. He did not regret this short discussion, seeing that it might have a tendency to direct public attention to the subject before it came again under their consideration.

THE DUKE OF NEWCASTLE said, he begged to remind their Lordships that some discussion did take place on the second reading, and that the noble Earl on the cross-benches (Earl Desart), who took part in that discussion, appeared entirely to discountenance the notion of opposing the Bill. He had, therefore, every reason to suppose that there was not the slightest intention of taking any division on any subsequent stage of the measure.

Motion, by leave of the House, *withdrawn*; and House to be put into Committee on *Thursday* next.

House adjourned till to-morrow.

## HOUSE OF COMMONS,

*Thursday, June 22, 1854.*

MINUTES.] PUBLIC BILLS.—1° Nuisances Removal and Diseases Prevention Acts Consolidation and Amendment.  
3° Excise Duties (Sugar).

### DRAINAGE OF LANDS BILL.

Order for Committee read; House in Committee.

Clause 1 *agreed to*.

Clause 2.

MR. HENLEY said, he wished to ask his hon. Friend (Mr. Ker Seymer) whether he intended to adhere to the definition of the term "landowner" given in this clause? He was quite sure that that definition included a great number of persons who could not be properly permitted to deal with the fee of land in the manner contemplated by this Bill. He was sure his hon. Friend could only wish to make this a good Bill, and he would suggest that he should allow this part of the clause to be struck out for the present, and consider a more satisfactory definition before the bringing up of the Report.

MR. KER SEYMER said, he believed that the interests dealt with by this Bill were less important generally than those which were dealt with by the Inclosure Act; and he thought that it could not be wrong to retain the definition given by that Act. If, however, there was a general wish on the part of the Committee that this part of the clause should be postponed, he had no objection to it, but he could not himself see the necessity of it.

MR. HENLEY said, if the clause should be adopted in its present form, it would enable the holder of a fourteen years' lease to consent as "landowner," to the land being interfered with for drainage purposes,

Ought a person having such an interest to have authority to give such consent, to the exclusion of the owner of the fee?

Words *struck out*; Clause *agreed to*.

Clause 3.

MR. HENLEY said, he would propose that it should be struck out. His hon. Friend had incorporated into his Bill not only the Inclosure Acts, but the Lands Clauses Consolidation Act and the Waterworks Clauses Act, and he was afraid that some of the definitions in those Acts might be found inapplicable to drainage purposes, and so produce confusion.

Clause *struck out*; Clauses 4 to 8 *agreed to*.

Clause 9.

MR. HENLEY said, he should propose the omission of this clause, as not being able to see the object with which it had been introduced into the Bill.

MR. KER SEYMER said, it had been introduced as a matter of convenience, to meet cases which might possibly occur, and in which the presence of a Commissioner might be thought desirable. If they placed confidence in the Assistant Commissioner of course they would place confidence in the Commissioners; and if a Commissioner gave a wrong decision, he would be always controlled by his colleagues.

MR. CHRISTOPHER said, he objected to the Commissioners acting without having the report of an Assistant Commissioner before them.

Clause *struck out*; Clauses 10 to 12 *agreed to*.

Clause 13.

MR. CHRISTOPHER said, he considered that most unusual and extensive powers were given to the Commissioners by this clause. In the event of a landowner being in a foreign country, or not to be found, the Commissioners were actually empowered to constitute themselves landlords for the purpose of this Act.

MR. EVELYN DENISON said, persons interested in the estate might make application to the Commissioners, who would then be authorised to act.

MR. AGLIONBY said, he saw no objection to this power being vested in the Commissioners. It was what was done every day in cases of disability.

MR. HENLEY said, that what he complained of was that there was no provision in the Bill for the expenses incurred under this clause. If a landlord went to Australia, for example, were the parties nominated

to act as landlords over his property without any check as to the expense?

MR. EVELYN DENISON said, he wished to ask if his right hon. Friend had ever known a landlord who went to Australia without leaving behind him a competent person to manage his estate?

MR. HENLEY said, there could be no doubt that many persons had acted in that way; but if, as his hon. Friend suggested, competent persons were left behind to manage the property, then the clause was unnecessary.

MR. KER SEYMER said, he thought all difficulty would be removed when they came to settle what was the precise meaning of the word "landlord."

Clause *agreed to*, as were also Clauses 14 to 18.

Clause 19.

MR. HENLEY said, he wished to propose the omission of the words "sketch or," his object being that not a sketch only, but a full plan of the proposed works should be prepared, so as to enable people to know what was intended. It was quite possible that a man in improving his own estate might injure that of his neighbour, and therefore it was of importance that from the very first the nature of the works should be known.

MR. KER SEYMER said, this Bill had been carefully framed with a view to remedying the defects of Lord Lincoln's Act, and one of these was the great preliminary expense incurred, by which it was rendered in a great measure inoperative. The proposed sketch would lead to little expense, and he had sufficient confidence in the Commissioners to believe that abuses would not be committed. Besides, in the very next clause, a full plan was provided for.

MR. AGLIONBY said, he should support the Amendment, on the ground that he could not understand the difference between a "sketch" and a "plan" unless it were that a sketch was something more loose or more vague than the other. If that were so, then he thought the Commissioners ought not to be called on to decide, except on definite and precise information.

MR. MILLS opposed the Amendment, on the ground that it would defeat the object of the Bill, which was to diminish the preliminary expense.

MR. CHRISTOPHER said, that under the Inclosure Act the assents of a great many persons were required, but under

this Act no assents whatever were required, and therefore whatever was proposed to be done ought to be accurately defined. It would be very unfair, to small proprietors especially, to take their land from them without ascertaining what the nature of the property really was.

SIR JOHN SHELLEY said, he would suggest that the "sketched plan" would meet all the difficulties.

MR. HENLEY said, he could not see how, without a proper plan of each field being given, a thorough system of drainage could be effected.

MR. EVELYN DENISON said, he thought there ought to be different plans, according to the nature and importance of the property, and that it would be better to leave the clause as it stood.

Question put "That the word 'sketch' stand part of the clause."

The Committee *divided*:—Ayes 63; Noes 18: Majority 45.

Clause *agreed to*, as were also the Clauses 20 to 31 inclusive.

Clause 32.

MR. CHRISTOPHER said, he objected that the clause gave too extensive powers to the Commissioners, who, in many cases, would be able to act without the consent of the proprietors, on account of the latter not choosing to incur the expense to which they would be subjected.

MR. HENLEY said, the expense to the small proprietors would be very great, and he trusted that the clause would be struck out. He also most strongly objected to the proposal to take away the right of appeal in cases where the Commissioners might think proper to declare, upon any question of compensation submitted to them, that the whole amount of injury sustained was less than 100*l*. He hoped his hon. Friend would consent to leave out this and the subsequent clauses of the Bill relating to this part of the subject, and to place the whole matter on the footing of the Lands Clauses Consolidation Act.

MR. CHRISTOPHER said, it would be impossible for small proprietors to incur the expense of employing professional assistance, and of fighting out the amount of compensation to be given before the Commissioners in London.

MR. KER SEYMER said, it must be remembered that the Commissioners would have to do a solemn act, and to make a formal declaration of the amount of injury sustained, under their hands and seals.

It must be assumed that they would not do this without due deliberation. He had no objection to reduce the amount from 100*l.* to 50*l.*; but this clause related to the cases in which the Commissioners should send down an Assistant Commissioner, and not to the right of appeal.

After some conversation, 50*l.* was substituted for 100*l.*, and the clause was *agreed to*; Clauses 33 to 38 inclusive were also *agreed to*.

Clause 39.

Mr. HENLEY moved, that it should be struck out. It was one of the series which related to the settlement of differences between parties with respect to the value of their land; and he hoped his hon. Friend would consent to strike it out, and leave the parties to the remedies provided by the Lands Clauses Consolidation Act.

Clause *struck out*, as were also Clauses 40 to 43; Clauses 44 to 46 *agreed to*.

Clause 47.

Mr. CHRISTOPHER said, he would suggest that some words ought to be introduced to limit the power of constructing open drains within a certain distance of dwelling-houses without the consent of the occupiers.

Mr. KER SEYMER said, he had no objection to any arrangement which should secure the domestic comfort of individuals, but he doubted whether this was the proper place to introduce any provision on the subject. The clause was copied from Lord Lincoln's Act, and related to the power to hold lands.

Mr. HENLEY said, he thought the powers given by the clause were too extensive, and would require consideration before the Bill was finally disposed of.

Mr. KER SEYMER said, he would consider the question before the bringing up of the Report.

Clause *agreed to*, as were the remaining clauses.

House resumed. Bill *reported* as amended.

#### OXFORD UNIVERSITY BILL.

On the Order of the Day for the consideration of this Bill, as amended, being read,

Mr. PHINN said, that he had on the previous day conferred with the hon. and learned Solicitor General upon the subject of the clause which he had proposed to

*Mr. K. Seymer*

introduce into the Bill, with the view of checking the extravagance of young men at the University, and that, having received an assurance that the Government would undertake to introduce a general measure on the subject, and remembering the opinions expressed in the House that that mode of dealing with the question would be preferable to exceptional legislation, and, therefore, conceiving that there would be no difficulty in passing such a measure during the present Session, he should not press his clause. The clauses of which he had given notice in regard to the Vice Chancellor's court he should propose upon the third reading, his hon. and learned Friend the Solicitor General having promised in the meantime to consult the authorities and assessor of the court, there being some difficulty in regard to the officers whose privileges it was proposed to abolish.

Mr. HEYWOOD then rose to move the introduction of a clause of which he had given notice, providing that from the first day of Michaelmas Term, 1854, it should not be necessary for any person, upon matriculation at the University of Oxford, to make or subscribe any declaration or take any oath except the oath of allegiance, or an equivalent declaration. The object of this clause was to place the University of Oxford on the same footing as that of Cambridge. At Oxford students were at the time of matriculation expected to sign the Thirty-nine Articles, and take the oath of supremacy, this being, he believed, the only University where any such ceremony had to be gone through at the time of matriculation. The present system at Oxford was not beneficial to the University, for it prevented parents sending their sons there. Nor was it very beneficial to the young men, for very few, of them, he believed, had ever read the Thirty-nine Articles, some of which were very difficult to be understood, and they generally, therefore, subscribed them in ignorance, or without sufficient consideration. The subject was not a new one, for it had been brought before Parliament in 1772, when a petition was presented from a large number of clergymen on the subject of an alteration in clerical oaths, and in 1834 the late Mr. Alderman Wood brought in a Bill for the abolition of matriculation and degree oaths in the Universities of Oxford and Cambridge, which passed this House by a large majority, but was lost in the other House.

The practical result of the defeat of this Bill was the establishment of the University of London, but, notwithstanding the success of that great institution, the Dissenters still considered they had a right to send their sons to the Universities of Oxford and Cambridge if they pleased. The Duke of Wellington, when Chancellor of Oxford University, endeavoured to persuade the University to consent to some alterations in these oaths, proposing that the Thirty-nine Articles should be laid aside, and that all students should be required to subscribe themselves members of the Established Church. The Hebdomadal Board laid the proposition before Convocation, which, however, rejected it. In 1843 the subject was introduced into Parliament by Mr. Christie, and now it was brought forward again. He thought he was justified in saying that there was nothing to be expected from the University itself on this subject, nor from the operation of a mere enabling Bill. Such an alteration as he now proposed was not one which could be expected to be made by an exclusively clerical body such as the University of Oxford; and he thought it was a question with which it was particularly the province of Parliament to deal. The absence of any test at the time of matriculation worked well at Cambridge and at Dublin; and he never heard any member of either of those Universities express a wish for the imposition of such a test. On the contrary he believed that all the members of those Universities would be extremely unwilling that such a test should exist. The noble Lord the Lord President (Lord J. Russell), when Prime Minister, instructed the Oxford Commissioners that they were not in their Report to go into the Dissenters' question. No such restriction was imposed upon those who gave evidence before the Commission; and many distinguished Oxford men expressed themselves entirely in favour of the abolition of the test. Among these were Professor Browne, of King's College, London, and Sir Charles Lyell. When the Articles, after being framed by the thirty-two Commissioners appointed for the purpose by King Edward VI., under the Statute passed in 1549, were sent down to Oxford, the visitors merely ordered the doctors and bachelors in divinity and the masters of arts to subscribe to them, and when they were revised by Archbishop Parker and presented to Parliament in the thirteenth year of the reign of Elizabeth, Parliament ordered

that ministers should sign those articles only which concerned faith and the sacraments. It seemed quite evident that there was no intention at the commencement of the Reformation to insist on any general imposition of these particular tests. When the popular party came into power in the Long Parliament, these tests were abolished, but at the Restoration they were reimposed. He did not remember any movement within the University itself for the repeal of religious tests, and for his own part he did not expect it; it was rather for Parliament itself to originate a measure to remedy the evil. The Thirty-nine Articles which the students of the University were required to subscribe to were by no means a finished body of religious doctrines. They were drawn up in ancient times, they contained old Roman Catholic dogmas, and they embodied some of the doctrinal errors of the middle ages. It must not be forgotten that in course of time opinion might change, and that the Articles themselves were only variable substances. The set of Articles drawn up by Archbishop Cranmer, in 1539, had been very much altered and modified since. The Thirty-nine Articles no doubt represented the spiritual views of learned men 300 years ago, and they were acceptable to the nation at that time, but they by no means represented the opinions of the same class of men of the present day. He could see no valid objection, under any circumstances, to the right of students of any denomination whatever going to Oxford as freely as to any other University or educational establishment. Oxford University was certainly one of the first institutions of the country, and great credit was due to the Government for the courage with which they had undertaken to reform it and adapt it to the requirements of the age. He regretted that the Government had not ventured to tear the network from Oxford, and make that University accessible to the whole nation, and he would urge the House to adopt the course which he proposed to it, as a necessary following up of its repeal of corporate and other tests. He denied that that House ought to shape its legislation according to what might or might not occur in another place; but he was at the same time ready to admit that for the production of a good measure it was desirable that the two Houses of Parliament should concur. He believed that the University of Oxford would derive great advantage from the measure which

was before the House; and he thought that this was the time for that House to make terms with the University and gain some advantage for the public. As an evidence of the feeling of the country upon this subject he might refer to the fact that there had been presented to the House 400 petitions, signed by 37,000 persons, against this test, while he believed not one had been presented in favour of its maintenance. He trusted, therefore, that his Motion would be agreed to.

MR. COLLIER, in seconding the Motion, said, he regretted to find that every proposal for extending education amongst the people of this country invariably met with objections in that House, either sectarian or fiscal, and the consequence was that large masses of our population remained uneducated, crime flourished, and property was unsafe; and the present question, although it related to the education of the higher classes, appeared to be equally unfortunate. The question before the House was how this great national educational institution could be made useful to the country. He called it a national institution, because if Oxford University were not such, the time of the nation was wasted in discussing this Bill. He knew there were those who said the question was not what would be most for the general benefit of the nation, but that they were tied down by the wills of the founders of the colleges, and that the University was an ecclesiastical corporation, intended for education exclusively in the doctrines of the Church of England. Now the wills of many of the founders were made before the time of the Reformation, and it was an extraordinary stretch of imagination to suppose that Roman Catholics, who founded these colleges for the benefit of their fellow-countrymen at large, if they could be resuscitated in our days, would adopt the Thirty-nine Articles of the Established Church as a test of admission. It was more reasonable to suppose that these pious Roman Catholic founders, if they could have foreseen the heresy embodied in the Thirty-nine Articles, would have left directions to burn rather than to matriculate those who professed to believe in them. The fact was at this distance of time it was impossible to tell exactly what were the intentions of the founders; and even if we knew their intentions, it would be exceedingly difficult to apply them to the circumstances and requirements of our own times. The proper

*Mr. Heywood*

course, therefore, was to assume that they designed that which would benefit their fellow-countrymen generally; at all events, it was impossible to believe that they would have preferred one form of Protestant heresy to another, whether that patronised by the State, or that adhered to by the Dissenters. It was said that Oxford University had for its object the education of students in the doctrines of the Established Church, and that it was an ecclesiastical corporation. Now, he (Mr. Collier) denied that proposition; and it was laid down by Blackstone, Lord Coke, and other high authorities, that the Universities were lay corporations; and, if so, it was as competent for Parliament to deal with them as with corporations of a municipal or other character, which had already been subjected to legislative control. If Oxford was exclusively intended for the manufacture of clergymen and bishops, then no doubt the raw material employed in the process ought to come from the Church of England, but it produced lawyers, physicians, state magistrates, and statesmen. The criterion in choosing a lawyer was not his orthodoxy, but his skill in his profession; and a man was not necessarily a better physician because he believed in all the Thirty-nine Articles, or in a less number of them, or even in none. The noble Lord the President of the Council had put this point forcibly, some twenty years ago, when speaking in support of a similar Motion to the present. He said, "You might as well examine a bishop in law or in medicine, as a lawyer or a medical man in divinity, and that there was a marked distinction between that part of the instruction which was of an ecclesiastical and that which was of a secular character." There was nothing, therefore, in the connection which existed between the Universities and the Established Church which should prevent Parliament from interfering with them for the general good. If there was nothing in the will of the founders, and nothing in their necessary connection with the Established Church, which proved that Parliament had no right to deal with the Universities as national institutions, the question resolved itself into this—was it expedient and for the general good that the Thirty-nine Articles should be upheld as the test for admission? It was said that the secular education given was so mixed with religion that to admit Dissenters would create confusion, weaken discipline, and introduce the warfare of contending

creeds into the quiet halls of the University. Now it had not been necessary for disciplinary or educational purposes to insist on subscription to the Thirty-nine Articles in the sister University at Cambridge, where students not intended for holy orders were not required to be taught in polemical doctrines, but simply to study the Scriptures and read Paley's Evidences, to either of which no Dissenter cared to object. The only grievance felt by the Dissenters at Cambridge was the compulsory attendance at chapel; and he (Mr. Collier) did not know that that enforced attendance would not on some occasions be more honoured in the breach than in the observance. No man would think that public attendance at daily prayer was a true test of the devotional feelings of an individual. If that practice were made a test in that House, he feared that Her Majesty's Ministers would stand in a perilous situation, and in the broad road which it was not necessary to particularise; and yet he ventured to assert that a more orthodox Government than the present never sat on the Treasury benches. Of all the Members of the Government none were more pious than the whippers-in, and yet, instead of inducing hon. Members to attend the prayers in that House, it was well known that they often used their best endeavours to keep them away. Dissenters, then, he held, ought to be exempted from compulsory attendance at chapel in the Universities. Thus, when properly looked at, all the alleged difficulties in the way of admitting the Dissenters melted away. The proposition of his hon. Friend (Mr. Heywood) was no innovation, but simply a return to that which existed in the sixteenth century. But while they satisfied themselves that there was no force in the objections of those who were opposed to the admission of the Dissenters, it might be asked what advantages would result from admitting them? Now he thought that the Dissenters themselves ought to be the best judges upon that point, and they were anxious for the privilege. Some said that the Dissenters would be all converted to the Established Church. He (Mr. Collier) might not, perhaps, be sorry if such a result were to ensue, but that would be their concern only. It had been suggested that they might so modify the Thirty-nine Articles as to remove the objection to subscribing to them, but that would be a subject of much difficulty, and one which he suspected

that House would scarcely be disposed to go into Committee upon. Some few nights ago the hon. Member for Stroud (Mr. Horsman) showed conclusively that although the studies at Oxford were almost exclusively confined to the classics and theology, yet that that University must yield the palm in the classics and in theology to the German Universities, whose studies comprised not only these two branches, but a hundred others besides. Why was there this inferiority on the part of Oxford? The main cause of it was, her own exclusiveness. She excluded not only Dissent, but the advancing knowledge of the age and its new ideas; treated with indifference, if not with contempt, modern science and art; and, ignoring progress, chose rather to rely on the wisdom of the ancients, preferring the physics of Aristotle to the *Novum Organum* of Bacon. The close atmosphere of Oxford required ventilation. Let her casements, then, be thrown open, and the healthy fresh breeze of the nineteenth century play through her sequestered cloisters. They might amend the constitution of the Hebdomadal Board, and remodel that of Convocation; but he ventured to think that all that would do nothing, as compared with the measure of his hon. Friend, towards infusing new vigour and vitality into the languid body of the University, and rendering it a national institution more worthy of the country and of the times in which we lived.

Clause (From and after the first day of Michaelmas Term, one thousand eight hundred and fifty-four, it shall not be necessary for any person, upon matriculating in the University of Oxford, to make or subscribe any declaration, or to take any oath, save the oath of allegiance, or an equivalent declaration of allegiance, any law or Statute to the contrary notwithstanding)—*brought up*, and read 1<sup>o</sup>.

MR. SIDNEY HERBERT said, that he was anxious, before the House proceeded to a division, to address a few words to it on this subject, to explain the course which he and his Colleagues intended to take on this occasion. He was certainly not going now to argue at any length the question whether or not Dissenters ought to be admitted to the University of Oxford. After the protracted discussions which had taken place in that House on subjects connected with the University, he thought they would be disinclined to enter further into lengthened debates upon this portion of the question. Yet it was important for

them to consider this proposition not only on its merits, but with a view to the effect which the particular mode of procedure might have upon the attainment of those objects which he, he apprehended in common with the great mass of Members on that side of the House, had at heart. This question had been but seldom argued in that House of late years, and recently great changes had taken place, not only in the tone of feeling on all subjects connected with religious liberty, but in the aspect and bearing of society in regard to religious questions. It was therefore impossible, he thought, at the present day to maintain the exclusive system which had so long prevailed at the University of Oxford. There had risen to the upper ranks of society great numbers of men who had sprung from the middle classes, and who, by their energy and force of character, had assumed, and most justly, a prominent position in the country, and also in that House, and they were entitled to say that no artificial restrictions should be imposed tending to prevent them from being thoroughly fused and amalgamated with the class to which they had been admitted, and with whom they were now associated. Now, he confessed, looking at the interests of the Church of England in reference to this question, that the maintenance of this exclusion was no longer either politic or necessary, whilst, with regard to the interests of that large class, the Dissenters, whom Parliament was bound to consider, he felt that their exclusion from these institutions, at the same time that it did not add to their stability, was a grievance and a natural ground of complaint. But the question was, how could they best attain the object they had in view? He had said that they had already had very lengthened and very difficult discussions on the question of University reform. The Bill now before the House had not fared so well as he could have wished, and as he had once hoped it would in that House. He did not think, therefore, that when the Bill left that House their anxieties for its fate would be at an end; and he confessed that he should deeply lament to see the introduction into it of any additional matter that would still further imperil its ultimate success. He was not willing that, by the rejection of this measure elsewhere, they should have a repetition in that House of all these interminable and difficult discussions in a measure of this kind; and he was not anxious, certainly, for the sake of

*Mr. S. Herbert*

the University itself, to see new strength given to that retrograde portion of the University who were opposed to the measure of the Government, which would be the case were this Bill to be defeated; whilst such a result would offer discouragement and discomfiture to the more enlightened part of the University, who were friendly to wholesome and well-considered reform in that institution. On these grounds, therefore, knowing that the introduction of the clauses of the hon. Gentleman (Mr. Heywood) into the Bill must most materially affect and jeopardise its chances of ultimate success, he should regret if this Bill were taken as the means for pressing this particular reform, of which the hon. Gentleman was, like himself (Mr. S. Herbert), the advocate. There was another reason why they should hesitate to legislate on this subject at that very moment. That portion of the Bill originally introduced into the House which related to the remodelling of the constitution of the different bodies who were to select the governing body for Oxford University had, subject to certain modifications in details, passed through the House hitherto, he might say, comparatively speaking, almost intact, and the Government yet trusted to see carried out those other and further reforms indicated in the Bill in the shape in which it was first brought in, but which had been excised from the measure because neither time nor the hope of carrying them in a satisfactory state justified their further proceeding with them. Well, then, having constituted the new governing body, and taken from the old body, the Hebdomadal Board—a body consisting of men elected for purposes quite different from the government of the University—that was, for the mere regulation of the colleges, and certainly not for their special fitness to govern the University—having taken the power from them, and placed it in the hands of those who were the really working men of the University, and who comprised its strength, its spirit, its ablest and most effective life, he said they would do wrong, at the very moment they had created this body, and intrusted to them these new functions, to mark their distrust of them by expressing an unwillingness to leave them to decide one of the most important questions that could affect the welfare of the University. He did not agree with the hon. and learned Gentleman who spoke last, as to the state of feeling in the University. It might be

true that in certain regions of the University there was a great want of sympathy with the public mind, and a stagnation of intellect, and an unwillingness to go forward at the pace at which public opinion ran in the country; but in the body of the University which was about to be intrusted with its government he ventured to say that they would find men as enlightened and liberal, whose sympathies were as generous, and who took as lively an interest in all questions that concerned our social state, as any body that could be found either in that House or out of it. Well, then, knowing that there existed in the University of Oxford so strong a feeling in favour of practical reform, and that there also existed a body in whom there was no illiberality of mind, but quite the reverse, and who were themselves anxious to see this very reform carried out, although he did not go the length of telling the House that they would do so, he said, let that body have the opportunity of doing what was required before they proceeded to legislate upon the anticipation—which might be an unjust anticipation—that they would not take the course which he believed, and he thought they would also believe, the interests of the University pointed out to them. Let them have an opportunity of considering for the first time this proposal, which had been so long agitated in that House, and which he believed had made much way in the University; and if that body should come to the desired conclusion, and themselves make an alteration in the Statutes to admit Dissenters to the University, depend upon it that would ensure much more than that House could do, even if it carried this Bill with the proposition of the hon. Gentleman (Mr. Heywood) inserted in its provisions. Now, certainly, the clause of the hon. Gentleman would do away with subscription to the Thirty-nine Articles upon matriculation; but it did not follow from that that it would secure the admission of Dissenters to the University. The body who had the making of the Statutes of the University could meet them, and, if so minded, would defeat them at every turn. They might frame Statutes for examination which would prove fully as distasteful to Dissenters as could subscription to the Thirty-nine Articles. They might insist on a *curriculum* of studies which would be as repugnant to the Dissenters as the Articles of the Established Church, and we should be powerless to effect our object;

whilst by taking this matter into its own hands, Parliament could only prevent those who possessed the real powers from doing voluntarily what they would have full power to do, if they were so inclined. Well, then, after all, what would happen if the hon. Gentleman's Motion were not adopted? The House would give no sanction to the opposite principle. He (Mr. Herbert) and his Colleagues were of the opinion, and were ready to express it, that so far as the interests of the University were concerned, no harm could arise from the admission of the Dissenters. Well, if the University were left to deal with this question upon due consideration, and should unfortunately, after all, disappoint their expectations in their decision upon it, Parliament would hereafter be no less powerful to act in this matter than it was now, and to settle the question by opening the doors of the University to the Dissenters. Therefore he said that, so far from advancing this question, they would only retard it by attempting now to deal with it as the hon. Member for North Lancashire proposed. For the reasons he had stated he hoped the House would not adopt the present Motion. What they had to consider was, how they could best attain the hon. Gentleman's object, and secure to themselves the assistance of those in whose hands the real power resided, namely, that new governing body which this Bill created; and he thought it would be ill-advised and impolitic, as that body was just constituted, to condemn it before it had even the opportunity of showing how it would deal with this question, if Parliament in a generous spirit confided to it the necessary powers for that purpose.

MR. MILNER GIBSON said, that he did not possess the same Parliamentary experience as the right hon. Gentleman who had just sat down, but he should have fancied that the best way of carrying their object into effect would be by voting for this Motion; and not by waiting, as the right hon. Gentleman suggested, until they saw what the new governing body would do for them. The right hon. Gentleman agreed with the views which his hon. Friend wished to see carried into practical legislation, but he wished the House to wait and see whether the new governing body at Oxford would not act of themselves, and then, if they did not, the right hon. Gentleman said the House of Commons would not be in a worse position

than they were at present. He knew that the same argument had been used in Parliament years ago. Twenty years ago, a similar appeal to that of the right hon. Gentleman was made to hon. Members favourable to this Motion, and it was said that the governing body of the University could, and probably would, make alterations in their tests to admit Dissenters, as public opinion was growing in favour of that proposition. That doctrine was at that time combated by the noble Lord the Member for Tiverton (Viscount Palmerston), who said he admitted the power of the Universities to throw open their doors to the Dissenters, but doubted their disposition to do so if left to themselves, and that was his (Mr. M. Gibson's) feeling on this question now. It was assuredly the duty of that House to take care of the public interests, and not to delegate that duty to any corporation or body whatever. They had been warned by the right hon. Gentleman (Mr. Sidney Herbert) of what might be the fate of that Bill in another House, if this proposition were made to form a part of the measure; but he (Mr. Milner Gibson) thought it was not becoming the dignity of the House of Commons to decline to do what was demanded by public policy, on the ground that it might not be acceptable to noble Lords sitting in another place. Let that House pass the measures they believed to be for the public interest, and let the other branch of the Legislature take the peril of throwing out the present measure if they thought fit. If the House of Commons had waited until their measures had been acceptable to the other House, where would have been those great measures of reform which had been obtained in past times? The argument of the right hon. Gentleman the Secretary at War might console the consciences of some of his Friends, who might be desirous of giving a vote in support of this Motion and against the Government. But he made an appeal to the noble Lord (Lord John Russell), and he thought that after the noble Lord's speech of last night it was their turn to-day, and that, so much having been said by the noble Lord for another interest, something ought now to be said in behalf of the Whig and Liberal party, of which the noble Lord was leader. He, therefore, made an appeal to that section of the Government which represented the advanced feeling of the Liberal party. He knew they would feel

*Mr. M. Gibson*

it acutely if they were compelled to vote against this Motion. If there was any question upon which the Whig party were more bound by their traditions and their principles than another, it was to allow no religious test to stand in the way of the civil privileges of any class of their fellow-subjects. He (Mr. M. Gibson) had himself been a subordinate Member of a Government, and knew what it was to go into the lobby in support of a Minister and vote against one's own convictions and pledges. He would now make an appeal on behalf of Members of the Government, that they should be permitted to vote for his hon. Friend's Motion, and that this should be treated as an open question; for why should it not? They had not then the Government of a party formed upon any particular set of political principles, and it could not be said that there would be any danger to any particular set of political principles through the temporary insubordination which might be occasioned by Members belonging to the Government voting for the Motion of his hon. Friend. He, therefore, asked that hon. Members might be allowed to vote as they thought fit and proper on this occasion, and that no Member of the Government should incur the displeasure of his chief on account of his vote on this occasion. If that were understood, he felt confident that the noble Lord the Member for the City of London himself, the noble Lord the Member for Tiverton, and all the Members of the Liberal section, at least, would give their votes in favour of the Motion; and from the speech of the right hon. Gentleman the Secretary at War, he hoped they would have also the support of the followers of the late Sir Robert Peel. He had no doubt there were Gentlemen on the other side who did not agree that it would be good policy to extend the benefits of University education to persons not belonging to the Church of England, and on that point he should say a few words. He viewed these religious tests as forming no part whatever of the original constitution of the Universities. They were originally imposed for political objects, and had reference to questions of the legitimacy of the Sovereign and of the dynasty—questions of no interest at the present moment, the circumstances of the present times being entirely different. Without expressing any opinion, therefore, as to whether, in past days, such policy was right or wrong, it must be admitted that at the

present moment, with a settled succession, there could be no earthly reason why they should maintain these tests. Was it not, he might almost say, disgraceful that they should be at that moment arguing whether it was right to extend the means of a liberal education to all classes of the community in the national Universities of the land? After the fierce declamation they heard in respect of education, and after the mouthing that went on throughout the country in favour of religious liberty, was it not strange to think that at that moment they should be positively arguing whether it was right or wrong to keep men out of the national Universities, which were public property, or to prevent any class of Her Majesty's subjects from getting education within the walls of their colleges? That they were public property—that they were lay impropriations—there could be no doubt whatever. Their privileges had all sprung from Parliament, and money was yearly voted and freely paid by all classes in the country for the support of professorships in this University. ["No, no!"] He begged pardon; there were votes of money for professorships, there were various civil privileges extended by Parliament and various institutions in the country to persons holding degrees obtained in the Universities, and, therefore, he contended that all classes were entitled to the benefits of these Universities, and ought not to be precluded on such grounds as they had heard from taking degrees, and obtaining all the social advantages the University could give, and sharing, as far as was practicable, in the emoluments of these Universities. They should give their immediate assent to the abolition of such a system, without waiting for the opinions or views of another place. It was said that boys going to Oxford before the age of twelve years were not required to give their assent to those theological propositions that went by the name of the Thirty-nine Articles; but it was conceived that when they were twelve years old they were sufficiently matured and sufficiently good theologians to give their assent to these propositions. An hon. Friend of his had said it was just as well to do it at twelve years old, for, no doubt, they understood it as well at twelve years of age as at any subsequent period of their lives, and he (Mr. M. Gibson) was afraid the observation was true. These were theological dogmas on which men might differ,

and to call upon young men to give that kind of unconditional consent was to sap the foundation of morality. It was carrying on a kind of solemn mockery to ask them to give their assent to this set of theological propositions. The right hon. Gentleman the Chancellor of the Exchequer had written ably with the view of showing that a State had a conscience. Surely, the right hon. Gentleman would agree with him that individuals had a conscience as well as a State, and ought not to be called upon in that kind of hasty and precipitate manner to give a solemn adhesion to propositions they could not understand. He did not believe they would hear from the right hon. Gentleman any kind of approval of such a system. But getting rid of the test at matriculation in Oxford was not sufficient. It was not sufficient to allow persons to enter the University; they must abolish the religious test that stood in the way of a degree, and allow the student to have the inducement the honours of the University would hold out to him to carry on his studies. They should not even have to stop short at a degree, but should be allowed a participation in the emoluments of the University, so far as those emoluments were of a lay character, and could be held by persons not expressly trained up for the duties of the Church. At the time these tests were imposed, similar tests were imposed upon all kinds of education. The schoolmaster could not be employed by a private family unless he was approved of by the bishop, and there was a penalty on young persons educated in a foreign University, wholly on account of political objects; but the circumstances of the present day called upon them not to continue them, at least upon these grounds. Some persons were very much afraid of the Dissenters getting into the Universities, fancying, from their numbers and influence, that they might share ultimately in the powers of the governing body of the University, and so gradually affect the interests of the Established Church; but upon that point he would take the liberty of reading a few passages from a work of the Right Rev. Connop Thirlwall, Bishop of St. David's, in which he gave his views of what the effect would be of allowing Dissenters to enter into the Universities. The right rev. Prelate said—

"For my own part, I am not one of those who, while they consider this measure as one of policy,

liberality, and justice, care little about its operations. I heartily wish, if carried, it may have the effect of directing many Dissenters to receive University education. I wish it, not for their sake only, but for our own. I think the substantial interests of the University—literature and science, morality and religion—would all gain by such an accession to our number. This belief is more than plain surmise. All observation and analogy lead us to expect that the sons of Dissenters of the middle classes, and such alone we look to have, would add strength to that part of our students which we desire to see growing until they absorb all the rest—to that part which includes the quiet, the temperate, the thoughtful, the industrious—those who feel the value of their time, and the dignity of their pursuits. Such Dissenters we have had and have now amongst us, and I wish we had more of them, and we should think the advantage of their presence was cheaply purchased by a share of the endowments which, if thrown open to competition, they would be able to obtain."

That forcible statement of a bishop of the Established Church ought to go forth to calm the apprehensions of Gentlemen when they heard that the admission of Dissenters to the Universities would be dangerous to the Establishment. But he (Mr. M. Gibson) would discharge the question of danger altogether from his mind, for he felt that, let there be danger or let there not be danger, the Church must stand upon its own merits; it must not be supported by injustice to others. He should go no further than the simple proposition that the Universities of Oxford, Cambridge, and Dublin, and other Universities, were national institutions; that all classes of Her Majesty's subjects were entitled to the benefit of these institutions; and that it was wrong, and absolutely immoral, to exclude any portion of the people of the country from the benefits of these institutions by the imposition of any religious test whatever. The Universities were not mere schools for teaching theology, and persons might learn there religion, and be trained in the Established Church, without the slightest interference on the part of those who were taking degrees in the same University, and who had purely secular objects in view. He hoped the noble Lord the Member for the City of London (Lord John Russell) would give them not only a vote, but a speech. He hoped the noble Lord would make them some reparation for what he had done on the preceding night. He could quote to the noble Lord the speech he had made on Mr. Christie's Motion, and he begged to refer hon. Gentlemen to that speech. Perhaps the noble Lord was going to use that

*Mr. M. Gibson*

night the weapons of which he had availed himself on the occasion of Mr. Christie's Motion, and he (Mr. M. Gibson) would not anticipate him by quoting his arguments, though they were most powerful, but he would sit down after quoting the words in which the speech of the noble Lord concluded, and which were to this effect—that he cordially supported the Motion of Mr. Christie for the abolition of all oaths and tests which would prevent persons who were Dissenters from taking honours in the Universities of Oxford and Cambridge.

SIR WILLIAM HEATHCOTE said, that, notwithstanding such a declaration as that mentioned by the right hon. Member who had just sat down, the noble Lord the Member for the City of London had given sufficient reasons why he thought it highly inexpedient on the present occasion to introduce into a Bill for the regulation and improvement of the University of Oxford a subject which had no necessary connection with the rest of the measure, and which was sure to excite differences of opinion, to distract attention, and probably create an angry discussion. The noble Lord's arguments were, in his (Sir W. Heathcote's) opinion, quite sufficient to justify his intended vote; but, as he had intimated then, and his right hon. Friend the Secretary at War had intimated to-day, that in the minor question be agreed with the hon. Member for North Lancashire (Mr. Heywood), it was necessary for him to explain why he thought the question involved rather deeper considerations, and why his objections were inherent to it, and not merely dependent upon the circumstances of the time to which the noble Lord and his right hon. Friend had adverted. The hon. Member for North Lancashire had introduced to the House two clauses, which the right hon. Gentleman the Member for Manchester (Mr. M. Gibson) rightly considered were connected and formed one continuous and inseparable clause. By that clause it was intended to introduce into the University of Oxford applicants for admission of two different descriptions—first, undergraduates; and, secondly, graduates in arts, law, or medicine, but not in divinity. He (Sir W. Heathcote) wished to guard the House from supposing that the first clause would really put the undergraduates on the same footing as undergraduates admitted to Cambridge. It was one thing to admit men without tests into a University, to the regulations of which they conformed,

and the instruction of which, religious or secular, they received, and for the arrangements to be, at the will of the University, subject to revocation if inconvenience arose; but it was quite another thing, by the stringency of an Act of Parliament, to enforce their admission, not on the conditions he had described, but as Dissenters, to be received and treated as such, with all the consequences of their religious worship, religious observances, and instruction involved in that recognition. With regard to the second clause of the hon. Member (Mr. Heywood), he would also wish to guard the House from supposing that, in conferring a degree without the test, they were in any way supported by the practice of the University of Dublin. It was quite true that in that University they could admit them to a degree; but it should be remembered that in that University degrees conferred no powers, and their possessors exercised no authority in the University at all. It consisted of one great college, and, according to its constitution, the members of the foundation of that college were also governors of the University. In the two clauses now brought before them the divinity degrees were not touched, they were to be left to the colleges and the University to deal with by their own authority. Whether it was intended by that, that divinity degrees were still to be confined to members of the Church of England, or whether it was expected that, when a sufficient number of men of different belief had been admitted to the governing body of the University that professors of all shades of belief might be admitted to degrees of divinity of various kinds, either by the extinction of all religious tests, or in some other manner, had not yet been explained. It might be that the omitting to deal with the degrees of divinity was a passive recognition of what he believed to be an undoubted fact, that the instruction in religion was so essentially connected with the very idea of Oxford University, that if it were violently disassociated from it, it would so decrease the future value of the University in the eyes of the country—its authority and influence in society would be so reduced—that those who were trying to make their way into it would find something very different from what they expected, and that the institution had been damaged in consequence of their success. He apprehended that the intention of the clause was to provide that the religious education should be

according to the tenets of each separate sect to which the members belonged, but the question was, whether such a course was practicable. They had one very noted example of the failure of an attempt made by a most eminent man to engraft into an institution in which various sects were comprehended a system of religious instruction. The attempt totally failed when the University of London was established. No one was more anxious upon that point than that highly gifted man the late Dr. Arnold, and he attempted to introduce in a practicable form a system into that University, in which he (Sir W. Heathcote) would not say a full education could be obtained in connection with the peculiarity of each form of belief, but, at least, some religious instruction, which he took to be common to all. But how did his efforts end? In nothing but a demonstration of the entire futility of his attempt. After very great efforts and a continued struggle with the Council, he found himself unable to carry his propositions, and retired from the position he held in the University. The Council were more clear-sighted than Dr. Arnold as to the difficulties to be encountered in endeavouring to carry out a measure inconsistent with the conditions upon which the University was established, and refused to admit the suggestions which he made. If, then, a general religious instruction was found so difficult, it would be clearly impossible for the professor of any one creed to convey to his pupils the peculiarities of other men, and young men who were not of the communion of the Church of England, but who, under the arrangements, came up for instruction, would often find in the University of Oxford not a single tutor or professor of their own opinion; the difficulties in the way of their receiving the instruction which it was intended they should receive would be found insuperable; and even if after a time there were professors and tutors of their own creed, it would often happen that members of the Church of England would be in the condition he had described with reference to the Dissenters. It was suggested that all this would be got rid of by having separate colleges and halls, but he should like any one who had a plan of that sort in his head to consider how it would operate on this Bill if it were carried into effect. There would be an end at once of the plan of extending professorships; it would be more than ever necessary to confine within the

strict limits of each hall or college the young men belonging to it; they would not be able to resort to professors and lecturers, except where the professors were of their own creed; and it would often happen that tutors and governors of halls and colleges would have a not unfounded jealousy—even on subjects with which they were not directly connected—in trusting their young men to the instruction of some eminent, highly qualified, and strong-minded professor, who unfortunately differed from them in opinion, and whose hostility to their creed might have been openly pronounced. He knew an instance, in a colony in which a University of this comprehensive character had been established, of the evils of such a system. One of the managers told a person from whom he (Sir W. Heathcote) heard it, that if in that University the Greek professor, when lecturing, should go one inch beyond the language, he would be censured by the Council. Besides, if colleges were to be kept separate and denominational, how were they to have any competition for fellowships, unless, indeed, they confined the Dissenters to the colleges, and allowed only the members of the Church to take the range over them all, which would be felt to be extremely unjust and offensive? There was also another point which the House should take into consideration. If the Motion of the hon. Member for North Lancashire were adopted, places of worship for persons of different denominations must be established, under the sanction of the University, for the students connected with the various halls and colleges. All these places of worship, having the sanction of the University, would possess, so far as the students were concerned, equal merit and authority. Persons must therefore send their sons to a University where there would be a number of conflicting preachers, many of whom would doubtless be men of very high talent. He supposed the hon. Member for North Lancashire did not propose that a measure which professed to be national should exclude Roman Catholics from the University. [*Cries of "No, no!"*] It was not intended to exclude them? [*Renewed cries of "No!"*] Well, then, he supposed it was not intended to exclude them, and in that case any man who should send his son to Oxford must consider what would happen in the present state of affairs, particularly when the great abilities and undoubted zeal of

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most eminent persons—he would say, considering all that was past, too eminent and too distinguished—who had gone out from them, would be reinforced by their knowledge of the place, and they might apply themselves to purposes which hon. Gentlemen would undoubtedly object to. He had not said one word about the Established Church, but he would say that it would be inconvenient for the members of different religious creeds to meet for the first time to form new Universities without any single one of them being armed with any prescriptive right. But surely, in such a case as this, if it be true, as he assumed it was, that religious education must be a prominent feature in the University of Oxford, there would be an almost insuperable objection to have it intrusted to the hands of persons of different forms of belief; and if the Established Church were to be displaced, it must not only be by the substitution of some other which they might think better, but it must be by one equally extensive. The right hon. Member for Manchester had pointed out the time when all these things were handed over from the Church of Rome to the Church of England; but if any Gentleman would look through the Statutes, he would see how continually, long before any questions of differences of practice or belief were made prominent, the Legislature of the country, with the most zealous care, guarded the national and independent character of the Church of England, and if they looked into some of the most important documents, they would find the recognition continually of the very name of the Church of England. They would find by the summonses to Parliament before the Reformation, in the reigns of Henry IV., Henry V., and Henry VI., that the Prelates and Peers were summoned to advise the King not only on the affairs of the State, but on the affairs of the Church, and not only of the Church in general terms, but of the Church by the name specifically of the Church of England. And continuing so to exist, the Church of England had proceeded to deal with its institutions, and, as they thought, reformed itself by shaking off—whether rightly or wrongly formed only part of the question—its subjection to the See of Rome, and the practices that are still continued in the Church of Rome, but it retained the identity of existence and the same name that had always belonged to it, and none of those who dissented from

them on any ground could say that the change was not accepted by the Church and the nation on the whole. It would be as impossible to deny the identity of the Church as an institution before and since the Reformation, as to affirm that the States of New York and Massachusetts had not an identity of existence under which a settled policy was administered because some seventy years ago they, like the Church of England, shook off their subjection to foreign dominion, and changed some part of their internal government. He believed, notwithstanding what was alleged to have occurred at the Reformation, this was the very first instance of an attempt to divorce the University of Oxford from the Church of England. If that divorce were to be effected, let it be complete, and let it be avowed, but let them not pretend that they left the University of Oxford in possession of the Church when they deprived it of the power of turning that possession to the religious welfare of the country. He would beg of the House to consider that it would be a most hazardous and dangerous experiment to attempt to combine in the University of Oxford all forms of religion in a system of religious instruction. It would be hopeless to attempt it, and would put an end to it as a Christian University. for the result would be that it would infallibly cause an explosion of the whole system in acrimonious controversy, or cause it to expire in indifference or infidelity. He should, therefore, feel it his duty to oppose the Motion.

SIR JOHN RAMSDEN said, that in the previous discussions on this Bill, he had refrained from taking any part; not from any want of interest in the questions affecting those Universities with which his own associations were so recent, but because he felt that suggestions for their reform came better from those Members whose experience entitled them to speak with an authority to which he could not pretend. But the question which had been brought before the House by the hon. Member for North Lancashire involved a principle to which every man who was fit to aspire to a seat in that House must have given some thought, and have come to some conclusion; and as the conclusion to which he had come was a very strong and decided one, he hoped he might be permitted to express to the House his reasons for the vote which he should feel it his duty now to give. The hon. Member

for North Lancashire (Mr. Heywood), as a Dissenter, speaking for himself and for those who, with him, owned no allegiance to, and acknowledged no sympathy with, the Established Church, had treated the question very naturally and very feelingly. The hon. Gentleman had shown what great importance the Nonconformist bodies of this kingdom attached to the question now raised, and how deeply and how painfully they were stung by their exclusion from the national Universities. He (Sir J. Ramsden) looked at this question from a different point of view to the hon. Gentleman. He was a member of the Established Church, and as a member of the Established Church he thought that he had an interest in this question fully as great as the Dissenter—nay, in one sense, the injustice of which the Dissenter complained—if, indeed, it were an injustice—affected the Churchman more deeply than the Dissenter, inasmuch as the perpetration of an injustice was more dishonourable than its endurance. The Dissenter might be aggrieved by an injurious exclusion; but the Churchman, who inflicted and maintained that exclusion, was the person really degraded by it. For it was a degradation that, under pretexts however specious, and from apprehensions however sincere, a great body of his fellow-subjects, lowered by no moral disqualification, were subjected to pain and disability which, because inflicted upon religious grounds, were unjust, impolitic, and oppressive. If it was really of great importance to the Dissenter to have access to the most valuable schools of education which this country can afford (and no one had ever yet denied that it must be so), it was of greater importance to the Churchman that the establishment of which he was a member should not incur the reproach of excluding from them upon a narrow system of intolerance and fear. It was of still greater importance to the nation at large that those controversies which the difference of opinion among the various religious bodies was so apt to engender, should not be further embittered by the fact that the most valued of our national institutions, intended originally for the benefit of all, were converted by legislative partiality into engines of undue favour to those of one creed, and of unmerited injustice and mortification to those of another. In listening to the objections urged by the hon. Baronet

the Member for the University of Oxford (Sir W. Heathcote) to the proposition before the House, he found that they rested mainly upon two grounds, and it was a remarkable fact that neither of these asserted an objection of principle. The first objection was one of convenience, affecting the existing internal arrangements of the University. The hon. Baronet argued that the admission of Dissenters would render it necessary to abandon those religious observances which now formed part of the system of collegiate discipline. The other objection raised by the hon. Baronet was one of policy affecting the Established Church. It was urged that the admission of Dissenters was to be opposed, not as hurtful to the University, but as destroying that identity of feeling and of action which had hitherto subsisted between the University and the Established Church, and thereby weakening and injuring the Established Church itself. Now, if these two objections could be satisfactorily met—if securities could be given against these two causes of alarm—if it could be shown that the admission of Dissenters would not interrupt the religious observances at present existing in the University, and was at the same time consistent with the stability of the Established Church, he (Sir J. Ramsden), did not see that there was any distinct affirmation of principle upon which the exclusion of Dissenters from the national Universities was attempted to be maintained. In order to see how far the first of these objections held good, he would ask what were those religious observances which would be interrupted by the admission of Dissenters? The only religious observance of which he was aware, to which this objection of the hon. Baronet would apply, was the attendance at the daily service in the college chapels. But before they considered this question with reference to Dissenters, he thought they should inquire how that attendance affected members of the Established Church. He thought they should ask themselves how far compulsory attendance upon religious worship really promoted the ends of religion, and how far it was really desirable even in the case of those undergraduates who were members of the Established Church. His belief, which he wished to express with all deference to the House, was, that the compulsory attendance upon religious worship, not unfrequently imposed

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as a punishment for some breach of discipline, had a direct tendency to destroy that reverential feeling with which so sacred an ordinance should be regarded. Could any one really think, on consideration, that they were justified in degrading their religious services to an instrument of collegiate discipline, submitted to, in one instance, as an irksome formality, and, in another, as an unavoidable but vexatious duty? Would it be a change really to be regretted if, by substituting voluntary for compulsory attendance at the college chapels, they increased the respect felt for the services of the Church, even at the expense of a numerical diminution of the congregation? He hoped he might be excused for saying that, for his own part, he would far rather see a small attendance of those who were met together under that sacred roof, brought there by feelings of devotion, and entertaining a right sense of the reverence due to the occasion, than a far larger congregation collected suddenly from the various occupations and pleasures of the day, entering there, perhaps, with feelings of impatience and irritation at the unwelcome interruption of their amusements, taking little thought of the true nature of the service, and remembering only, that this observance must be gone through a stated number of times in the week for the sake of keeping out of disgrace with the college authorities. And, if he had justly estimated this system of compulsory attendance upon religious worship, if its effects were indeed more than questionable even upon those undergraduates who were members of the Established Church, then he thought it would hardly be a valid objection to the claims of the Dissenters, even if it could be shown that their admission to the University would render it necessary to abandon the system entirely. Then with regard to the objection that the admission of Dissenters to the University would be injurious to the connection of the Universities with the Established Church. It could not, he thought, be denied that there would be some inconveniences attending the destruction of that religious unity—that close and intimate connection and identity—which had hitherto been maintained between the University and the Established Church. He conceived, however, that the question the House had now to decide was, not whether this union was or was not beneficial—not whether inconvenience

would or would not result from its dissolution—but whether it was better to maintain this union, and, by maintaining it, to exclude one-half of the nation from the national Universities, or to relax this union, and, by relaxing it, to restore to the Universities their original character as institutions for the general cultivation of knowledge, science, and literature. Looking upon the question in this light, weighing one alternative against the other, and considering both the good to be hoped and the evil to be feared from either plan of action, he thought the House could not hesitate as to which ought to be preferred. The hon. Member for the University of Oxford had contended that by sanctioning the admission of Dissenters to the University they would destroy that close and intimate association which had hitherto been maintained between the Established Church and the Universities, and that by thus loosening the ties between the Church and the Universities they would strike at the very foundations of the Established Church itself. He (Sir J. Ramsden) hoped the foundations of the Church of England—of which, in common with a majority of that House, he was a member—were too surely laid to be endangered by a measure of justice. If, however, the Church did require support other than that which was inherent in the purity of her doctrines, in the learning and piety of her ministers, and in the love of the people, he thought that support could surely be obtained by some means less questionable and more praiseworthy than by the system of imposing oaths concerning her doctrines upon those who sought admission to the Universities, which all, whether they were of an age to have studied and understood those doctrines or not, were compelled under severe penalty to subscribe—oaths which a pure-minded and conscientious Dissenter would refuse to take, while the Atheist and the scoffer at all religious obligations would embrace them without scruple or hesitation. The Church could derive no strength from such formalities as these; but she could derive both character and strength, by setting an example of charity, of magnanimity, and of justice; by proclaiming to the world that she had nothing in common with that intolerant and persecuting spirit which would rest on law and secular authority for that influence which should be derived from the spontaneous affection of

all whom she would bring within her sphere. He believed that social as well as religious advantages would result from throwing open the Universities to Dissenters. He believed it would be an advantage to bring young men of different religious denominations to sit at the same table and to study in the same class. He believed that men would thus be led to form juster conceptions of one another's character, and that friendships would be established which would exercise an influence in after life, substituting better feelings for that asperity and hostility which were now too often the fruits of injustice and exclusion. He believed that those who, in their maturer years, as religious teachers, exerted so great an influence over their respective flocks—the parochial clergyman and the dissenting minister—educated together at the same University, learning there to estimate and to do justice to each other's characters, when they met in after life in the wider field of their respective duties, would contend rather as zealous labourers in the cause of Christianity than as rival champions of sectarian hostility. On these grounds he conceived that so far from the admission of Dissenters being hurtful to the University by disturbing the religious services of the Church, or dangerous to the Church from in any way impairing her influence or stability, no measure could be more calculated to strengthen both University and Church, inasmuch as by substituting voluntary for compulsory attendance at the holy services of the college chapel, it would exalt and purify that attendance; and by removing a perpetual and well-grounded complaint of grievance and injustice now preferred against the Church, it would increase the respect with which the Church herself was regarded. Having attempted to notice—and he hoped not in too presuming a spirit—the objections urged against the admission of Dissenters to the Universities, he now came to that which was really more important—the argument in favour of their admission, and this argument was founded, as it seemed to him, on a clear, intelligible principle. In the first place, he would ask, what were the Universities? Were they national establishments or not? Was a degree conferred by the Universities a civil or an ecclesiastical distinction? Were the Universities mere schools for supplying clergymen to the Established Church, or

were they institutions for the general cultivation of knowledge and for the enlargement of the field of literature and science? If it were said that the Universities were national establishments, how could they deserve the name so long as they excluded one-half the nation? If a degree conferred by the Universities was a civil, and not an ecclesiastical distinction, if it might be of great practical advantage to men studying for the faculties of law or of medicine, on what plea of reason or of justice could it be refused because of a merely theological opinion? If the Universities were something more than training schools for clergymen, if they were the great fountains from which the pure stream of knowledge should flow down, pervading all classes of the nation, and diffusing in its course the refining and elevating influence of that highest intellectual culture which it was the peculiar boast of our Universities to instil, was it wise, was it just, was it expedient, considering the importance of the Dissenters, in numbers, character, and position, to condemn them to an inferior system of education, antagonistic to our own, and this, too, at a time when the very anxiety they manifested to be admitted to those intellectual advantages which the members of the Established Church now monopolised demonstrated how highly they appreciated those advantages, and, by appreciating, how worthy they were to enjoy them? It had been for now, happily, many years the great principle of legislation in this country to remove all civil disabilities which had been imposed on religious grounds. This principle had been carried out to a great extent in all departments of the State, and there had been ample opportunities of witnessing its results. He would therefore ask, what did all experience on this subject prove? Did it show that this system of liberality had been so detrimental to the welfare of the nation, that it was impolitic to pursue it further? Or did it show, on the contrary, that every step in the removal of these restrictions had been attended with great and unquestionable advantage to all the best interests of the nation? If all experience did indeed force upon them this conviction, and if they were to act on this conviction, on what principle, he would not say of justice, but even of consistency, could they defend the exclusion now in question? At a time,

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indeed, when the Dissenter was incapable, by law, of holding a commission in the Army, or of filling the lowest employment under the Government, or even of being elected to a municipal office in a provincial town, then this exclusion was, at least, consistent. But now, when the Churchman and the Dissenter sat side by side in that House, when all, without distinction of religious opinion, were alike eligible to the most responsible offices in the State, on what principle of justice, of consistency, or of expediency, did they refuse to the Dissenter admission to the Universities, and thereby deprive him of those means of education which would best qualify him for the high duties which he might afterwards be called upon to fulfil? If, indeed, it could be asserted, with any pretence to truth, that the Dissenters were, as a body, notoriously deficient in that morality of life and propriety of conduct which it was the aim of our Universities to inculcate and sustain, and so, on that account, a pernicious influence might follow from their admission, then, indeed, it might be difficult to combat an objection so grave and so well-grounded; but no Member of that House, he was sure, would resort to an argument so ungenerous and so unjust as that. However much they might differ from the theological views of the Dissenters, it was impossible for them to deny that, as a moral and a religious body, the Dissenters would bear comparison with the best portions of Her Majesty's subjects. In past times, England had been largely indebted to the Dissenters for their defence of that religion and of those liberties of which they were the pious champions; and now, in our own day, what men were more distinguished for the morality of their lives, for the sincerity of their religion, for their active charity, for their zeal in every good work, and, above all, for their unwearied and valuable efforts in the cause of education? And, so far from the character of the Universities, their morality, or their religion, being in any degree lowered by the admission of Dissenters, he believed they would be improved and elevated by it. He, therefore, submitted that, by admitting the Dissenters to the Universities, they would attain these most desirable results:—In the first place, they would be carrying out to its direct and logical conclusion that great principle of religious

liberty which, already wisely affirmed by Parliament, had conduced to the peace and good government of the realm, while at the same time, they were doing an act of justice to the Dissenters, whom all must acknowledge to be a great and growing element in the State. In the next place, they would benefit the Universities by enlarging the sphere of their usefulness, and by bringing within their influence a powerful and meritorious class who now regarded that influence with jealousy almost amounting to hostility; and then, as regards the Established Church, they would relieve her from that most fatal reproach of sustaining by injustice and exclusion that influence which she should owe to public confidence and respect. And if, as regards the Dissenters, the Universities, and the Church, every consideration was in favour of concession, still more did he think that it would raise the character of that House to give effect to the principle embodied in the Motion of the hon. Member for North Lancashire, in favour of which he tendered him his thanks for having given him the opportunity of recording his very cordial vote.

MR. HENLEY said, he would not follow the hon. Baronet on the arduous ground that the Universities were national institutions; for if what was done in the Universities was not justifiable on that ground, it could not be justified at all. The hon. Member, in his able speech, told the House that the Dissenters—and no one differed from him in that respect—were a body distinguished for their morality of conduct and sincerity of religious principle. That, indeed, for which they were so eminently distinguished, and which, in fact, made them Dissenters, must, of itself, if rightly considered, almost give a conclusive answer to the question now before the House. It was said that the University was a place for the purposes of national education, and that it had no right by tests to make exclusion at a period when no civil disabilities should be allowed. Carrying that proposition out to its legitimate conclusion—the University being a place for the purposes of education, there would be no religious education at all; and that system would have to be carried out in every school as well as in the Universities. Was that desirable? It was said with some force by hon. Members that compulsory attendance at the college chapel did not make young men religious; but would any

one venture to maintain that it would be wise and well to make no provision in the Universities, as places of education, for attendance upon religious worship, whether on week-day or on Sunday; or that young men should be left to themselves, without religious instruction, to act as they chose, and lead a heathen sort of life? The question whether or not religious instruction should form a part of education at the University and in schools lay, therefore, at the root of the whole matter. If hon. Gentlemen could make up their minds that the youth of this country ought not to receive a religious education, then all the difficulties in dealing with the question would be done away with. But no one had attempted, nevertheless, to show that it was right or fitting that young men, at the time of life they entered the University, should have religious education withheld from them. On the contrary, that question was thrown over; and the hon. Gentlemen who spoke in favour of the Motion had gone upon the subject of tests. It was imperative to have the present system, therefore, or no system of religious instruction at all. He (Mr. Henley) believed the various religious communities of the country would prefer that their children should have a religious education. It might, he was aware, be said, that there could be means devised for that purpose in the new halls. But how could that be reconciled with the University? It was not the halls, but the University, that was a national institution, and the University it was, and not the halls, which had the system of instructing its members in their religious duties. No man, however, pretended that the University should teach all religions; if it taught any, it should, therefore, be the religion of the Established Church, so long as there was an Established Church in existence. Hon. Members were consequently compelled to come back to the dilemma of religious teaching as it stood in the University, or no religious teaching at all of any kind whatsoever. In the latter case, however, to pass the Bill would be to enact an untruth, because the preamble clearly stated that it was for the interest of religion and learning. In his (Mr. Henley's) opinion, the clause of the hon. Member for North Lancashire would strike at the very root and foundation of the prosperity of the University, by attacking the system of religious teaching in that institution. For he believed that the great and lasting fame of the University and the

cause of the anxiety to get into it arose, not so much from its excellence in literature and science, as because, at all times and in all seasons, she had held fast by what she believed to be true, and had never shrunk from performing her duty in teaching the laws of God to man. All this hon. Gentlemen wanted to break down; all this system they wanted to give up. As far as the Church was concerned, he (Mr. Henley) believed it would stand where it was now in the event of the Motion being adopted. But the Church had always held it to be her first duty to teach religion to the people, and the University had always held that it would surrender its first privilege if it gave up religious teaching. If religious teaching was given up, the connection with the Church of England should be abandoned; and the University would also have to abandon its present form of examination. If it were adopted, they would have the greatest educational institution of this Christian land—instead of a place for religion and learning—converted into one for science and literature. He did not think the country wished that to be done; sure he was that the great majority of Dissenters would oppose the present Motion if they knew it would have such an effect. Was religion to be entirely dropped at the most critical period of a young man's life, and was he to be cast, as it were, among a chaos of opinions without any guide to point which way he should turn at a time of life, he would add, when too many were disposed to go nowhere, and when one bad habit led on to another, and eventually to widespread infidelity or indifference? He did not know whether the right hon. Member for South Wiltshire (Mr. S. Herbert) spoke the opinions of the right hon. Gentleman the Member for the University of Oxford (the Chancellor of the Exchequer), but he understood him to say that he (Mr. S. Herbert) and all his Colleagues approved of the proposal of the hon. Member for North Lancashire, but opposed it now, because they thought that was not the proper time to bring it forward. He (Mr. Henley) voted against it on no such ground. He objected to it on principle, being determined, at all times and under all circumstances, to vote against that which he believed would destroy the University as a place of religious teaching.

THE CHANCELLOR OF THE EXCHEQUER: Sir, the right hon. Gentleman

who has just sat down has made an appeal

Mr. Henley

to me with respect to my opinion upon this question, and he is quite entitled to make that appeal, because he is, though I am am afraid much against his will, invested with that right through his position of being one of my constituents. Therefore he is, both as his representative and as a Member of the Government, entitled to call upon me explicitly to declare my views with respect to this question; and while that constitutes his title to demand the explanation, I trust it will give me the same title to the indulgence of the House while I enter, as clearly as I can, into a statement of my views upon this important question. At the same time, I must say that there are some pleas, to which allusion has been made in the course of this debate, which it has been supposed the Government would urge in this discussion, that I wish at once and altogether to discard. I shall not plead that the claim of the Dissenters for admission into the University of Oxford ought to be withdrawn, or that it has been in any material respect weakened, on account of the circumstance that within the last twenty years there has been founded what, in some sense, may be called a University of their own. I allude, of course, to the establishment of the London University. Neither shall I plead, as the hon. and learned Member for Plymouth (Mr. Collier) apprehended I should, that the Dissenters ought not to be admitted into the University of Oxford because the halls and colleges of that University are ecclesiastical corporations, for I do not believe that proposition is a true and a sound proposition, either in reason or in law. Neither will I plead that on account of the wills of the founders the present system of exclusion ought to be maintained, because of all grounds on which exclusion could be maintained, that is to me the weakest when we recollect that the greatest change which has occurred since the foundation of the colleges relates to this very subject-matter, and involved the greatest possible change with regard to the religion of those who are admitted—I allude, of course, to the change which was effected at the period of the Reformation.

The right hon. Gentleman who has just sat down—with whom I anticipate the satisfaction of voting—has given reasons for that vote, with regard to which I am sure I shall not surprise him when I say that I am not convinced by them. But there is great force in much of what he has urged, and all the more, if I interpreted correctly

the cheers which reached my ears from one quarter of the House following some of his observations, and which cheers I interpreted to mean—I shall be happy to find that I have put a wrong construction upon them—that this vote is intended to be the first of a series of Parliamentary interferences by which the system of religious instruction in the University is intended to be altogether broken down. It may be all very well for the right hon. Gentleman the Member for Manchester (Mr. M. Gibson) to say that on this occasion he discards altogether the question of the Established Church. He not only thinks that we may enter upon this question notwithstanding its bearing upon the Established Church, but he is disposed to say that we have no right to bring the interests or the position of the Established Church into the consideration of this question at all. Now, Sir, I confess, when I recollect the title by which I sit here—when I recollect the character and the capacity of that function by which the right of sending Members to Parliament has been granted to the University—I feel that I, at least, should betray the solemn and sacred trust which has been committed to me, if I were to hold the doctrine that the interest and the position of the Church of England had no place in this discussion. It may be all very well to say that the University of Oxford is a national institution, and that therefore we ought to admit all parties to the enjoyment of its advantages, irrespective of religious persuasion. Sir, it is equally true that every parochial benefice in the country is also a national institution; but there is no immediate or necessary sequence in the proposition that therefore we should admit to their possession the holders of all descriptions of religious opinions. You may say, and you will say truly, that the purpose of a parochial benefice is one thing, and that the purpose of a University is another thing. Sir, I am far indeed from saying that they are identical, but the purpose for which I contend is not their identity; it is this—that to be national the University must be founded on a principle that is dear to the hearts of the people of this country—the principle that the education communicated there is a religious education; and that if these things be so, you are not only entitled, but absolutely bound, to take into view the interests and the position of the Established Church of the country with regard to this question. As

I have already said, I feel that, as far as I am concerned, this is a matter of personal duty; and if I were to adopt the proposition of the right hon. Gentleman the Member for Manchester, I should feel that the next step which it would be incumbent upon me to take would be the rather difficult one of making application for the Chiltern Hundreds, that I might either exclude myself from Parliament or seek the suffrages of some other constituency. I hold the relative position of the Church and of the University of Oxford to be this—that while the Church is in the position of a national establishment, so long as the people of this country insist on a connection being maintained between religion and education, so long the Church is entitled to expect that the interests of the University—that the discipline of the University—that the government of the University—shall be moulded in conformity with the principles of religion, and with the principles of religion in that specific form in which they are held and taught by the Church of England. I would not go so far as to say that it appears to me a line ought to be drawn between admission to the University itself and admission to the endowments of the University. If a line were drawn at all, it ought, perhaps, to exclude those endowments that are connected with the government of the University. But with reference to the other classes of endowments, such as exhibitions and bursaries—endowments that do not partake of any connection with the government of the University—I would place them on the same level with access to the University itself; for it appears to me to be most desirable that, in making this change, we should be careful not to leave this great institution under the imputation of indulging in such a sordid advantage as that of a pecuniary monopoly. Having said thus much, Sir, upon the claims of the Church—having said that I do not think the claims of the Dissenters are satisfied or put an end to by the fact that another University has been founded, to which they have free access if they want a liberal system of education—I have next to consider what practically we can do, or enable others to do, compatibly with the fair and legitimate claims of the Church of England with respect to the admission of Dissenters to the University of Oxford. I may remind the House, as I proceed, that though hon. Members have spoken much of the claims of Dissenters

in this matter, and of the admission of Dissenters to Oxford, as being highly popular in the country, yet there are other parties whose case cannot be separated from theirs, and the mention of whom it would, in my opinion, be in the highest degree dishonest to suppress. Independent of the Dissenters, with respect to whose admission I may state honestly and frankly that I entertain no objection whatever, you have other classes to deal with—I allude to the Roman Catholics. I am sure there must be few Members—if there be any in this House—who are prepared to state that any distinction is to be taken between the title of Dissenters to be admitted to the Universities and the title of Roman Catholics. Whether such a distinction would be popular or not at the present moment in the country, I shall not stop to inquire; but in my opinion it would be a distinction incompatible with justice or even with common decency, and the examination of the question of the admission of Dissenters I consider essentially and necessarily involves the admission to the University of Roman Catholics. Sir, upon this subject I must express my concurrence in the views, as I understand them, which have been stated by my right hon. Friend the Secretary at War. I certainly am not authorised to explain or to put any construction upon his sentiments, but I must say that I think the right hon. Gentleman (Mr. Henley) has put an interpretation upon those sentiments much too rigorous and precise. He thinks that my right hon. Friend intended to give in his adherence to the terms of the present Motion. Now I do not understand my right hon. Friend to refer to those terms; but I understood him to say, and I concur with him in the opinion, that, supposing due regard should be taken for the security of the religious teaching and discipline of the Church in the University of Oxford, then I consider there would be great advantage—advantage to Dissenters—advantage to the Church—advantage to the nation—if provision were, and I think it can be, made for the admission of Dissenters to the benefits and advantages of education at the University of Oxford.

I now come to the terms of the Motion of my hon. Friend the Member for North Lancashire (Mr. Heywood). He is not satisfied with the general profession on the part of my noble Friend (Lord J. Russell) and of the Government, that the Dissenters should have the door set open and

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clear to them for their admission to the University. He insists that a plan for so admitting them shall be made a part of the present measure. I hope he will consider the peculiar position of the Government with respect to this question. In 1850 my noble Friend, then at the head of the Government, drew a distinction between the question of University reform and the admission of Dissenters to the University. I do not say that my noble Friend then made, or was understood to make, a pledge, that the two questions should always be kept separate. Up to the present time, however, the Government undoubtedly have kept them separate. By doing so, I am free to own we have now the acquiescence, the assent, the warm and intelligent support of many members of the University of Oxford, whose support has enabled us to carry the Bill thus far, modified, it is true, in many particulars, but yet still embracing most of those objects for which it was originally framed; and I do hope my hon. Friend will feel—at least speaking for myself as one deeply interested in the progress of the measure I should feel—that I was making a most unworthy return for that support, were I to assent to a change so vital at the last moment, after the provisions of the Bill have been so thoroughly discussed—now, on the bringing up of the Report, were I to assent to a change so vital, so essential, and so unexpected from all that the Government have hitherto said and done on the subject. That, however, is a matter which I freely admit affects the position of the Government rather than the duty of this House. I at least, as an individual, feel that it would be an ill return for us to make for the support we have hitherto received from Oxford—support which we should never have had unless we had kept separate those two questions, and without which support, I own, I am perfectly satisfied we never should have been able to induce the House to accede to the propositions contained in this Bill. But I would go further, and would press upon my hon. Friend (Mr. Heywood) considerations which are applicable to the House as well as to the Government. My hon. Friend invites us, by his Motion, to defeat the very provisions on which this Bill is founded. The introduction of his clauses into the Bill would be to make them different, I may say discrepant, with every other clause which the Bill at present contains. The Bill is

essentially an emancipating Bill; it is to give the University of Oxford something like a liberal and free constitution. What do we do by this Bill? We propose to alter the constitution of the University so far as to require that all properly qualified persons, being graduates of the University, should be allowed, without restriction or stint, to open private houses for the education of the young. But, in effecting this, we only propose to undo what the intervention of the State has already done. It was the intervention of the State that saddled the free University of Oxford with a constitution of which I will not say that the working was dishonest, but it certainly was to give the University the character of an oligarchical constitution. The result of that act of the State was to absorb the whole of the University in the colleges, and completely to destroy the extra-collegiate element. So far as we have proceeded, our interference is to give the University a free constitution, and that no absolute compulsion shall be maintained to preserve the collegiate monopoly. All the rest we leave to the University itself. Everything that regards its prosperity and its government we leave to the undisputed and unlimited charge of the governing body.

Some hon. Members may be inclined to say, "That is all just, but this question of admitting Dissenters ought to be made an exception." But, I ask, is that a wise—is it a practicable—proposition? Is it, in the first place, a simple or an easy matter to provide by coercion for the admission of Dissenters to the University? The right hon. Gentleman the Member for Manchester says, "If you are friendly to the admission of Dissenters, the best way of showing it is to vote for this Motion." That proposition may be very clear to the right hon. Gentleman; but it is far from being evident to my own mind; and I think it is far from being what is called a self-evident proposition. I venture to say, on the other hand, that as a practicable proposition the Motion of my hon. Friend the Member for North Lancashire would not secure the admission of Dissenters to the University of Oxford at all. I do not now enter upon the question of subscription as affecting the members of the Church of England—the real question touches the admission of Dissenters to the Universities; and I say that, so far as they are concerned, the terms of the hon. Gentleman's Motion would not admit Dissenters to the University. What

does it signify that you seem to open a door for the admission of Dissenters, if, when it is opened, you find a Cerberus that stands ready to devour the man when he enters? The hon. Gentleman argues as if there was nothing in the world but the matriculation test which interferes with the admission of Dissenters. I thought the contrary would have been within the hon. Gentleman's own knowledge. I thought that, even from his residence at Cambridge, he would have been aware that persons can be effectually excluded whenever it is desired, without having resort to the matriculation test at all. The fact has been stated to me that it was desired by a gentleman to send a person in whom he was interested to one of the Universities of this country. The person was a Roman Catholic. The gentleman made inquiries what would be his position if he was sent to Cambridge, and he was told that the young gentleman would be expected to attend chapel regularly. I believe—but I cannot pledge my own personal knowledge to the fact—that this inquiry was addressed to all the colleges in Cambridge, and the answer from all was the same, that in all the colleges and halls of Cambridge he would be expected to be a constant attendant at chapel. The hon. Member himself is evidently not surprised at this, because it was within his own knowledge that this exclusion could be practised at Cambridge. What is the use, then, of resorting to a legislative proposition, of resorting to legislative violence, to effect the admission of Dissenters, if, after having recourse to this violence—this breaking down of the system of self-government—you find that after all you have enacted a law which is inefficient for its purpose? I put it to my hon. Friend whether, seeing that, even if his clause passes, he would still be indebted to the good-will of the governing body of the University of Oxford for the admission of Dissenters, whether it would not be the better and the wiser course to trust to that free-will and generous feeling in the first instance, and see what it will produce, rather than bring the authority of Parliament to bear upon the point, and expose that authority to contempt, by engaging it in a contest in which it is sure to be worsted. I know that this question does not now present itself for the first time to the mind of the hon. Gentleman. He must himself own that those whom he admits by the force of a Parliamentary en-

actment would find their admission neutralised by being put under the rigid and stringent rules of attending the religious services of the Church of England. Why does the hon. Member not attempt to cure that? Because it is obvious that with every fresh step of this coercive legislation that you take, you increase the difficulties of your position. Is the hon. Member prepared to prohibit compulsory attendance at chapel? That would certainly cure the evil so far. But I think my hon. Friend is not prepared for such a strong measure as that proposition would involve. Whether he is or is not so prepared, I think his powers of calculation and his Parliamentary knowledge are sufficient to assure him that he has not the slightest chance of inducing this House to adopt it. Then he says that, though he would not interfere with the compulsory attendance at chapel with regard to under-graduate members generally, yet that Dissenters should be exempted. Here we stumble upon another difficulty. We know from the debate of yesterday, and from many other sources, that there is the strongest objection felt by this House to Dissenters being marked out from the rest of the community—to their going about, as it is called, “ticketed on their backs.” The hon. Gentleman is not prepared to exempt Dissenters; the consequence is, that he has left the clause a futile and inoperative clause. After all, this is not the only difficulty, for, with regard to lectures, the hon. Member knows perfectly well that every under graduate is required to undergo a special religious training in the Articles of the Church of England, as well as in the Gospels, in the Old Testament, and in the evidences of religion. My hon. Friend does not propose that that examination shall be stopped, neither does he provide that Dissenters shall be exempted from it, because here again we encounter the old difficulty in drawing a distinction between Dissenters and the members of the Church of England. The examination for degrees is precisely the same case in another form. My hon. Friend thinks that he has attained his point by saying that there shall not be a religious test before the taking of degrees. He knows very well that the taking of degrees is accompanied by certain forms and services of a religious nature; and I have no doubt he feels that it would be unseemly and indecorous to have an examination for degrees without some religious service, and there-

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fore he does not venture to strip the taking of a degree from its religious appurtenances, neither does he venture to exempt Dissenters.

Now, I hope I have made it intelligible to the House why I dwelt so long upon the importance of leaving this matter to the discretion of the University. It would be a perfectly easy thing with willing parties to draw such distinctions and to make such adjustments as would admit Dissenters. My belief is, that it would be entirely within the power of the University and of the colleges, by judicious regulations, so to adjust the system of discipline and teaching as to admit Dissenters to-day without insulting them to-morrow, which would be the only consequence resulting from the clause of my hon. Friend. We have often heard the same difficulty discussed with reference to schools. Is it not well known to all—is it not patent to all who are practically conversant with education—that, notwithstanding all the theoretical divisions on the subject of mixing the religious element in common education, yet that in practice, where the desire for conciliation exists, those theoretical difficulties are found to melt and vanish away? If the difficulty with regard to the admission of Dissenters can be met and arranged—and I firmly believe that it can—it can only be by the action of the University itself. It is only by the adjustment of difficulties which arise out of a system of religious instruction offered in a special form that the admission of persons of various creeds can be obtained. You may possibly hope to succeed in accomplishing this task. But I must again remind you that it would be unworthy of this House to pass a measure by which Dissenters may be able to creep into the University while Roman Catholics remain excluded. It would be unworthy of this House to say, “Look here; we have passed a large measure of religious liberty,” while the law is altogether inoperative with regard to those who consider themselves to bear a special relation to the founders of our colleges. If you think that the Dissenters may reconcile it to their consciences to attend chapel, do you think that the Roman Catholics will do so? No; and therefore I say that, if ever the time should come when it is necessary for Parliament to interfere, I trust they will do it honestly—I trust they will do it explicitly—I trust they will do it thoroughly. The question now before us is, in my opinion—I do not say that it is not

an honest measure, for I know the honesty of the intentions of my hon. Friend, but I do say it is not an explicit measure, and I am certain that it is so far from being a thorough measure that it will be entirely inefficient and useless for the object which my hon. Friend has in view. My right hon. Friend the Secretary at War referred—and I thought with considerable force—to the probable result of my hon. Friend's achievement, supposing him to succeed in inducing this House to adopt his clauses, and to send the Bill with these clauses annexed to the House of Lords. My hon. Friend may say, as the right hon. Member for Manchester (Mr. M. Gibson) has said, "I do not care what the House of Lords may do; the Bill may be lost without regret—we shall get a better Bill next year." But I think the Dissenters of this country would be adopting a language which is new in their history, and which would not redound to their credit, if they were to say, "We are indifferent to the improvement of the University unless we are admitted to share in its advantages." I do not think that that language will be held by them. I think I have heard the hon. Member for Oldham (Mr. W. J. Fox), who holds a distinguished position among the Dissenters, hold language of a very different and of a much wiser character; he has expressed great anxiety that good should be done to the University, founding himself on this conviction, that good to the University could never be the means of doing harm to Dissenters; that if the claim of Dissenters were just, it could not but be forwarded by every improvement which took place in the constitution and government of the University. I fear that great mischief will be done if my hon. Friend's Motion is successful—if his clauses are incorporated in this Bill. I do not hesitate to say that, as far as I am acquainted with the University, I gather this information—that while the University has made great progress and gone through many changes with respect to the disposition of its leading members to admit Dissenters, there is yet one principle which is deeply and widely cherished in the University, altogether irrespective of particular opinions on this particular question, and that principle is a love of the independence of the University. I tell my hon. Friend, and I tell him in no unfriendly spirit, that those persons whose minds are the most perfectly open to the consideration of this question—and I trust I have shown the House that they are the only persons to

deal with it effectually—they will be driven back from its consideration—they will rally round the other friends of the liberty and independence of the University—they will be driven back from making any serious efforts for the adjustment of this question, if you involve it in an attempt to interfere with the free and unfettered action of the University.

There is only one other point on which I wish to say a word to the House. It may be fairly asked, what is the meaning of this plea of trusting to the action of the University? Do you intend that we are to trust to them for ever? Do you intend that if, after all, the University should be unable or unwilling to act, Parliament is perpetually to hold its hand? I may be allowed to say in answer, that while nothing in the shape of menace would be expedient—and if menace would not be expedient in others, I may be allowed to say, considering the position in which I stand as representative of the University of Oxford, that it would hardly be decorous in me—yet I have no intention of holding any such doctrine as to say that Parliament is to hold its hand for ever, and to allow matters to remain as they are for an indefinite period. It would doubtless be a hard and sore choice, indeed, if we were told to choose between the breaking down the principle of religious education on the one hand and the admission of Dissenters to the University on the other. But I do not believe that we are reduced to that alternative. My belief is, that there is a solution of the question which involves neither the one difficulty nor the other. My hon. Friend has not found that solution. I believe the only persons who can find it are the persons who are responsible for the management of the affairs of the University. It may be all very well for the right hon. Gentleman the Member for Manchester (Mr. M. Gibson) to come forward and say, "Don't let us be intimidated by the House of Lords. What would have come of all the good measures if we had waited till the House of Lords had come up to the standard of those measures?" Sir, I do not think that it was by violence or by overawing the House of Lords that the good measures of the last twenty years have been carried. I believe that it was by the judicious forbearance of this House, by its good feeling, by its watching times and seasons, by its sedulous attention to every opportunity that prudence dictated. It was in this way, and not by violence, that those measures were

carried. I certainly think that the greatest mischief will result if these clauses are incorporated in the Bill. You may say, though the Bill is rejected now, we shall get a better measure next year. I don't think, Sir, if this Bill is rejected, that you will get another Bill next year, or the year after that; I don't think this House has the time to afford, year after year, for a measure of this kind, which it has so generously afforded this year. But the mischief will not stop there. It will alienate the minds of many members in the University who might have been disposed to forward this object. You will in the first place, and needlessly, do the mischief of applying the strong hand of centralising power to override the local academical rights of the University of Oxford; and, in the second place, you will find that this wanton exercise of power is also an imprudent and a useless exercise of power, and that after you have brandished the whip in the face of the University, you must still depend upon its good-will; because your enactment, unless by the good-will of a free University, will be useless for the purposes which you have in view.

Mr. HEYWOOD, in explanation, said, he must state that he had brought this question forward on account both of Churchmen and Dissenters; and with regard to the chapel question and other details, he had consented to postpone the discussion until the Report, upon the clear understanding that, if the Motion were carried, the Bill should be recommitted for the purpose of having the necessary alterations made in it.

Lord STANLEY said, two members of the Cabinet had spoken upon this question, and the House had obtained from them all the information respecting the intentions of the Government which it was now likely to receive. And he must say that the course they had taken in reference to the question was precisely that which might have been expected from the manner in which, during the present Session, they had dealt with almost every question of principle, and especially with every question of religious principle, that had come under the consideration of the House. They had not accepted the responsibility of opposing the present proposition upon any broad or intelligible grounds. They only accepted the responsibility of evading the hostility and encountering the opposition which they were aware they must meet with if they were to accede to the Motion. Such a result might be convenient to them as a

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Government, but to the country the issue would, he thought, be unfortunate. The question might be suspended, but it would be assuredly renewed; and the result would afford another, and he must say a most superfluous, instance of the policy of that indefinite delay which seemed to be the only definite policy of Gentlemen opposite. The House had been told that if this clause were to pass, and to be incorporated into the Bill, the measure would not be suffered to pass elsewhere. Now, he did not know what peculiar knowledge, or what peculiar sources of information the Government possessed to enable them to decide that question; but, for his part, he was by no means so certain that the Bill would not pass through both Houses of Parliament. There were some Members of the House of Commons, some Members of a Liberal Government, who ought to feel extremely indebted to the House of Lords; for whenever a pledge was to be abandoned, a measure withdrawn, or a Motion indefinitely postponed, there was no more convenient excuse than to say that, although it would most undoubtedly obtain the sanction of the House of Commons, that sanction would be perfectly useless, because the measure would not be accepted in another place. The next argument that had been used by the right hon. Gentleman the Chancellor of the Exchequer, certainly struck him (Lord Stanley) as being one of rather a strange character to come from such a quarter. It was, in fact, but a repetition, with some modification, of that previously used by his Colleague, the right hon. Gentleman the Secretary at War. "Respect," said he, "the independence of the University, and do not attempt to dictate to the University." This sounded very much like the echo of that which he (Lord Stanley) had heard four years ago from the Opposition side of the House; and four years ago he could readily understand the argument, and should have acceded to it, that it was right to respect the independence of the University, and not attempt any Parliamentary dictation to it. But they were at this very moment attempting by Parliamentary authority to frame a new constitution for the University. The case was altered. "Do not," it was added, "distrust the governing body." Well, he did not distrust the new governing body; he neither trusted nor distrusted it; he knew nothing of what its working would be; but he must say this, that the Parliamen-

tary authority which was sufficient to frame a new constitution for the University, and to change the depositaries of power, had also the right—and it ought not to be deterred by any fastidious notions from exercising it—to give to that governing body such general directions as it deemed right in order to guide its conclusions. He was not, however, for a single moment, contending that it would be wise or expedient for the House of Commons to take upon itself the management of the academical affairs of the University; no course could be more unwise or more inconvenient both to Parliament and the University; and this argument told rather for than against his case, because it relieved him from the necessity of replying to the objections—some of large importance, but others of most minute detail—which had been raised by the right hon. Gentleman (the Chancellor of the Exchequer) and the hon. Baronet (Sir W. Heathcote) the two Members for the University. He did not think it would be wise or well for Parliament to interfere with the details of academical affairs. But the present question was not one of detail; it was a large and general question of principle; it was one of those questions of national interest and importance which, if you admitted, and it had been admitted, that Parliament possessed any power at all over the University, could not in fairness and in common sense be avoided. Then they were told that if these clauses were embodied into the Bill, and they became law, they would be nugatory, because it would still be in the power of the University to refuse admission to Dissenters. He (Lord Stanley) had not the slightest doubt that if there was a general agreement in opinion adverse to the present Motion among those who had the principal conduct of affairs in the government of the University, it would be in their power to throw every species of obstacle in the way of carrying out the Resolution, and of preventing it from having practical effect: but he contended that, though technically it would be possible for the University to interpose such obstacles to the working of the Resolution as would render it practically inoperative, the expression of the national will, and of the national opinion, contained in a deliberate and formal Resolution of the House of Commons, would convey to the governing body an indication of public feeling which he suspected they would not think it safe, or wise, or expedient to quarrel with. Then

they were told that the University, if only left alone, was quite ready to undertake this species of reform—the admission of Nonconformists—upon its own account. Now, he must say that this assurance was a little inconsistent with the long catalogue of minute objections which the right hon. Gentleman had thrown in the way of the present proposition. For example, he said it was the most difficult thing in the world to make a way by which Nonconformists should be admitted practically to the University; and then, as if forgetful of that argument, he told the House that the University, or a large portion of it, was quite willing to make this reform, but if its independence were not respected, its friendship would be turned into hostility. He (Lord Stanley) certainly entertained no unfriendly spirit towards the University of Oxford. He believed there was a desire for reform in Oxford as well as in Cambridge. He believed that in many matters the Universities were perfectly ready to accept large and important changes without being coerced into them, and without receiving admonitions from Parliament; but, in his opinion, the question of the admission of Nonconformists was just one of those questions with which there would be the greatest difficulty in dealing if it were left barely to the will and discretion of the University. It would have in that case to be decided upon by an assembly composed exclusively of members of the Church of England, and composed, too, in a very large degree, of the clergy of the Church of England. He did not like to refer to the state of parties and opinions in particular places; still he could not forget, for the fact was notorious, that the University with which it was now proposed to deal was, as it were, the head-quarters of that party in ecclesiastical matters which had invariably looked with the greatest disfavour upon the Protestant Dissenting interests, and which had shown the least possible wish to admit the claims which that interest might have. The hon. Baronet the Member for the University ought to be a good authority upon that matter; and he had given the House one practical hint, which ought not to be lost sight of. He went into a statement of the difficulties which would attend the working of this proposal; and among other things he said it would make it very difficult to establish there a system of Dissenting professorships. Why? Because, he said, there would be such a feeling of antagonism be-

tween one interest and another, that the heads of existing colleges would be very reluctant to allow their pupils to attend the lectures of Dissenting professors. That might or might not be the case; it was a matter of which he (Lord Stanley) could only judge by report; but the hon. Baronet was certainly good authority upon the subject: and, if this were to be the case, if this was the feeling to be displayed by the University, and by the persons intrusted with authority in it, what became of the argument of the right hon. Gentleman the Chancellor of the Exchequer, that if the University was only let alone, and Parliament did not interfere, Nonconformists would be admitted by the University? With regard to the first clause, he confessed that few persons who had received their education at Cambridge would be inclined to entertain any great difference of opinion as to the propriety of adopting it. Some tests and declarations might be necessary at some time, but if there was a time and occasion when it was more necessary than another to pass them by, it was when the opinion and judgment of the parties were necessarily unformed. In ninety-nine cases out of a hundred a man, in his profession of faith, followed that which his parents had held before him; but suppose, and it was no impossible case, a young man came to the University, and upon being asked to subscribe to the Thirty-nine Articles, or to subscribe himself a member of the Church of England, implying assent to those Articles, he said, "I have been educated in the opinions of the Church of England, but here is a mass of very complicated propositions, propositions upon the meaning of which many learned persons are not agreed, and I confess I should like some time to make up my mind, I should like to have some little time for reflection, some opportunity of studying this subject, before I commit myself to an opinion upon them." And he had some right to ask this, because the argument of those who were most strenuous for maintaining the continuance of tests rested upon this basis, that the University of Oxford was a school of theology. If it were a school of theology, there was an end to the proposition; but what an inversion it was of ordinary theological processes to tell a man that he must arrive at certain conclusions in the first instance, and that when he had done so, and pledged himself to them—perhaps not irrevocably, but no man wished to revoke a pledge of

Lord Stanley

that kind—he had to find out, with all the assistance the University could give him, what were the arguments upon which those conclusions were based. Having declared himself a member of the Church of England, he must also declare whether he intended to remain one or not. He thought that the argument which was so prominently put forward, that the University of Oxford was intended as a school of theology, was to his mind just the strongest reason why those who came to study it should not be asked to give pledges upon unformed opinions. He had only a few more words to say. The second clause had undoubtedly a wider scope than the first; it was a proposition of much wider import, and one for which no precedent was to be found in the present state of the University of Oxford; but, although there were many objections against it, he believed it involved a principle to which the House ought to give its assent. The one topic most touched upon by those who opposed the admission of Nonconformists to the University was the difficulty of giving a united religious education in an University admitting members of all opinions. If you were to centralise education, and to merge theology in the University, then you would find these difficulties—first, the impossibility, for such it was, of giving an united religious education; and secondly, the strong objection to giving an education not religious; and these difficulties would meet you everywhere, till they became almost insuperable. He did not see how, unless you made a *tabula rasa* of the whole arrangements of the University, it would be possible to admit persons not members of the Church of England to hold offices in the various colleges. He believed it would be found necessary to retain those colleges, as they now were, in exclusive connection with the Church of England. He had come to this conclusion with some regret; but he believed the difficulty of dealing with them in any other manner could not be obtained. There was nothing, however, except the one single case of degrees in divinity—there was really no difficulty in the constitution of the University—which should render the admission of Nonconformists impossible. He believed that, without any material difficulty, without any difficulty that should stand in the way of such a reform as this, it might be effected by retaining the colleges for the exclusive use of members of the Church of England, and opening the University to members of

all sects. This of course got rid of the difficulty about religious worship, because students attended the services, not of the University, but of their own colleges. In conclusion, he would only say that he was glad the subject had been brought before the attention of the House. His own convictions of it were clear and strong, and he hoped the House would not, by leaving it unsettled for an indefinite period, shrink from the responsibility which devolved upon it, of settling the question now.

Mr. WIGRAM said, that though he had the honour of sitting on the same side of the House as the noble Lord who had just addressed them, yet he had looked upon the sentiments of the noble Lord on questions of this description with distrust ever since he had read his pamphlet on church rates. The doctrines which the noble Lord had propounded tended, in his (Mr. Wigram's) opinion, to the subversion of the Church of England. The noble Lord, however, though he had made an able speech, had not applied himself to the real difficulties of dealing with this question as they were put by the Chancellor of the Exchequer. He had not considered the consequences of the Resolution not only upon the Church of England, but upon Protestant Dissenters generally, nor had he discussed the strongest point of all, the teaching of religious principle. How were they to deal with this last question? Was there to be one religion taught in the University, or a multitude? To teach many religions in one University would be teaching nothing less than infidelity. The difficulties which would be produced would, he felt persuaded, be found very great, and, in the first place, directly they admitted the principle of trying to accommodate everybody's religion, they would say that the matter of religious instruction was one of no importance at all. These were the difficulties which encumbered the question; and he contended that no solution had yet been offered. With regard to Cambridge, it was the system there, and no doubt there was a similar disposition at Oxford, to promote the attendance of students of all sects at the University lectures. But what had been the consequence at Cambridge? Why, that only those Dissenters were received who were content to receive the religious instruction offered, and who conformed to the discipline of the University as respected attendance upon religious services. The University did not sacrifice the great principle of requiring religious

instruction, and he certainly could not but entirely dissent from those who spoke with disrespect of compulsory attendance upon religious instruction. There could be no more real objection to this compulsory attendance than to the attendance of a family upon religious worship. The cases were exactly analogous. Although Cambridge wished to possess as many Dissenters as possible, the result had been that their attendance was not very large, and he did not believe that any system would thoroughly succeed in inducing them to come so long as the discipline of religious instruction in connection with the Established Church was kept up. He thought, therefore, that the Government had acted wisely in leaving this question to the University. He could not understand why the Universities should be the only corporate bodies in the country whose independence should not be respected.

Mr. LUCAS: I think the House will allow me to say a few words on this question with respect to the position of the Catholics in regard to it; and I am happy to find myself in a position in which, although religious interests are involved, I am able to give a perfectly impartial vote. The right hon. Gentleman the Chancellor of the Exchequer (Mr. Gladstone) has spoken as if the peculiar position of the Catholics caused a peculiar difficulty in the statement of the question. So far as I am concerned—and I have no right to speak for any other Catholic gentleman—so far as I know the opinions of the Catholics of this country, there is no wish whatever—certainly I have no wish whatever—to give my vote in favour of the Resolution with any idea of Catholics taking advantage of the alteration of the law which is proposed. If the door is to be opened to Catholics and Dissenters, I should be glad (so far as Catholics are concerned) to find that behind the door there is that Cerberus to which the right hon. Gentleman alluded: for I believe it would be extremely injurious to Catholic interests, for which alone I speak on this occasion, if Catholics were to take advantage of any such right of admission to the University of Oxford, as by this Resolution it is proposed to offer. Sir, I perfectly agree with those who say that the Church of England has a right to have a system of religious education for her children, whether clerical or lay, and I should never desire to interfere with that right of the Church of England which I claim for the Catholics of this

empire. But, Sir, the whole cause of the Church of England has been surrendered by the right hon. Gentleman (Mr. Gladstone) by his argument on this occasion. The right hon. Gentleman admits that there is a right on the part of Dissenters, and that the present law does them injustice. He admits that they have a claim to enjoy some benefit from the funds which the colleges and University of Oxford hold in trust for the nation. He admits that the present law denies to the Dissenters of England right and justice; but he says that there is a remedy for the wrong: and what is that remedy? He has not told us—he has not even intimated to us—nor do any of his statements show that any remedy is to be looked for from the course which he would have the House to adopt on this occasion. He says that the only hope of remedy is from the good-will of the University, under the new governing body the Bill proposes to establish. But he holds out no hope, nor any reason to hope—he states no facts nor arguments, nor lays before us any considerations, to induce us to hope that the new governing body of the University will adopt any different course from that which the old governing body of the University has adopted on this question; and he throws us, therefore, back on that which the hon. Member who moved this Resolution wishes us to resort to in the first instance—the authority of Parliament. Ultimately, it would appear, even from what the right hon. Gentleman (Mr. Gladstone) said, that you must come to the authority of Parliament for redress. He admits the justice of the demand; he says it must ultimately be conceded. If he had any reason to hope that the University would make the concession the Dissenters demand, he would not have failed to assign his reasons for entertaining that hope; but, having stated no reasons for such an expectation, having shown no ground for it, he certainly has no claim to the vote of any Member on the supposition that if legislative interposition be delayed any longer, a change will take place in the action of the University, by which the remedy he admits to be necessary will be conceded, and the wrong he acknowledges will be redressed. Sir, although unwilling to delay the House, I think I have some claim to state the position of the Catholics as to this question. The position they hold upon it is this. They believe that it is necessary to have a religious education for Catholics, and they wish to establish,

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and are about establishing, a University of their own. They make no demand on the University of Oxford. There is no wish on the part of the Catholics of Ireland or England that any demand should be made on their behalf. But they know that on the part of the nation at large there is a right to the benefit of the funds of the University for national education, so far as they can be properly applied for the benefit of others than those of the Church of England. And if the Dissenters, entertaining different views from the Catholics, wish to participate in the benefit of those funds; if they see no difficulty, according to their religious views and opinions, in participating in the education which is afforded at Oxford; and if it is possible to have arrangements made—as the right hon. Gentleman the Chancellor of the Exchequer admits is possible—to allow them fairly the advantage of those educational endowments, then, although I, on the part of the Catholics, make no claim whatever, and should consider the practical enforcement of such a claim as the greatest disaster that could befall the Catholic community, I claim it as a matter of right for those who do not entertain the same opinion, and I insist upon it for those whose claim is practically admitted by the right hon. Gentleman (Mr. Gladstone), and I hope that the House will show that it is the intention of Parliament to enforce that just and reasonable claim.

Mr. W. J. FOX said, he had not heard from any quarter or from any hon. Member any reason why it was morally or intellectually necessary to sign the Thirty-nine Articles as the commencement of the educational course at Oxford. But it was incumbent upon those who supported the continuance of the present system to establish this necessity. What, he asked, was the good of this operation, which all young men were called upon to perform? Where was its wisdom as an educational matter? Some good arising from it ought at least to be pointed out. A young man of sixteen or eighteen signed a vast body of divinity which, though it was compressed into the form of Thirty-nine Articles, contained between 400 and 500 distinct propositions, many of which related to the most abstruse and mysterious subjects—propositions which have been matters of debate for a long succession of centuries, which had been debated by the wisest and the most learned men, and about which pious and godly men had ranged themselves upon different sides;

and, he asked, what could be the good, intellectually or morally, of requiring a youth just commencing his education to subscribe to them? He must do it negligently, indifferently, or hypocritically. There was no other alternative. It was scarcely possible that a young man should be able to decide upon points of this description. Suppose he signed them; what was the probable consequence? Why, that that which he signed in ignorance he might be driven from by sophistry. By the very process of calling upon him to pledge himself to certain opinions, he was laid open to the attacks of the first objector he might meet with, and thus his faith would be more liable to be shaken than confirmed by the operation. Suppose he signed the Articles indifferently; did they wish that their religious training in the Universities should be commenced with a practical lesson on the value of indifference to all religions? Why, he was reading the other day of a gallant colonel, formerly a Member of that House, who said that he had subscribed the Articles without knowing it. He was told that he had signed, and when he asked when and where, the answer was, "Why, don't you remember a man bringing you a book to sign, and asking you for 13s. 4d.?" It was by no means a good introduction to a course of "religious training" that a young man should be taught to regard such a form as a mere ceremony, which might be gone through in this careless way. Did they wish the course of education should be commenced in hypocrisy? If the young man did not coincide exactly with all the propositions set before him, to what course was he driven? Why, unwilling to relinquish his position or prospects, he equivocated in his own mind—he took the first lesson in casuistry, which soon became Jesuitism, and he assented to words about which he cared nothing in his honest thoughts. Was this a proper training for a young man? Was this a fit commencement of education for those who were to be the future administrators of the law and the future teachers of the people of this country? When he said that these were complicated and inexpedient propositions to place before a young man, he thought thus far coincidentally with the Church of England, that in no other case did that Church impose any such shackles on its laity; as to what it might require of its clergy that was a different case. There were thousands who attended the services of the Church of England,

and who did so with the perfect acquiescence of the ministers of their respective parishes, who would on no account affix their signatures to the Thirty-nine Articles. In fact, the Church of England gave more freedom of speech and action to its lay members than did many of the Dissenting bodies to theirs, yet to require this signature from students entering the University was to announce to the youth of the community that if they wished to enjoy the benefits of a University education, they must renounce the common privileges and general religious liberty of the laymen of the Church of England. He might remind them that from time to time the clergy also expressed their desire to be released from this yoke, through the medium of petitions to that House, and it was not many years since a Bishop in the other House declared that he had never known a single clergyman who believed every iota of the Thirty-nine Articles. That statement of Edward Stanley, the late Bishop of Norwich, was no hasty assertion made in the heat of debate. The right rev. Prelate published his statement afterwards, affixed notes to it, and with this reiterated declaration, that it was impossible any person could believe the whole of them, because some portions were in direct contradiction with others. Now, if such were the opinions of a Bishop of the Church, he asked, was it right to ask young laymen to sign so solemn and multifarious a declaration? Dissenters in Cambridge were not subjected to the test, but they were not allowed to take honours, which seemed an ill-judged and a churlish exclusion. It was objected that the religious customs and views of Dissenters would not harmonise with those which they would find prevailing at Oxford; but the great mass of Dissenters from the Church had no such objection to its services as would prevent their attendance in the college chapels. The University of London made no religious provision for its students, yet Dissenters sent their children there, and took measures for their religious instruction whilst there, and the means which they took in London they might with equal facility adopt at Oxford. He perceived great disadvantage in fettering the mind of a young man at the beginning of his course of educational training on such a number of important subjects. Oxford might be regarded as the conservator of religious opinions and doctrines, and a young man would find himself breathing an atmo-

sphere impregnated with this spirit, which he could not avoid imbibing ; but to fulfil its functions adequately, and make itself a complete representative of the national mind, there was something else it must attend to—progress as well as conservation. But it was argued that these tests ought to be kept up in consequence of the will of the founders. The will of the founders ! Why, most of those founders were most anxious that masses should be said for the repose of their souls—that the faithful should pray for them. But was this done ? Nay, it was now held to be a heresy to do so. They could not from their graves recall the money power they had given—their opinions now found no response there, their request no heed. The only practical result of this proposed devotion to the wills of founders would be that the heads of houses should forthwith form themselves into an assembly, and lay their keys at the feet of Cardinal Wiseman. Nor could it be pretended that the faith now inculcated in the University was that of the majority of the people of this country ; that had been of late demonstrated by that language of figures which could not falsify or deceive. There had been no period in this country since the Reformation at which there was anything like unanimity of religious faith. He asked, therefore, on what ground the University of Oxford could possibly resist the decided opinion of the majority of that House, that its gates should be thrown open ? Not certainly on the ground of subscription to the Articles, nor on that of conformity to the will of the founders, nor on that of having already communicated the advantages of their institution to the great majority of the community. In fact, the only pretence on which they could rest their opposition, was that well-known one,

“For why ? Because the good old rule

Sufficeth them ; the simple plan

That they should take who have the power,  
And they should keep who can.”

The supporters of the Motion asked for a better, a more liberal and comprehensive system, in the names of this country, so many of whom were debarred from the advantages of the academical system, and for the sake of that cause of literature and learning which had suffered from its exclusiveness. They asked it as a right ; they did not want to come in by the back door, nor were they disposed to wait for that lingering acquiescence which some might expect from the University authorities, who,

*Mr. W. J. Fox*

if they had not regarded the deliberate decision of that House, given twenty years ago, would scarcely regard the modified expression of opinion which seemed likely to be the result of this debate. They asked for it on grounds calculated to raise the University in the estimation of the world, for certainly it could not be said to have attained that high degree of fame and pre-eminence in learning which it ought to have in order to accord with the position and reputation of this great empire. They demanded not only the admission of Dissenters to the University, they demanded also the admission of the spirit of nationality and of that great distinctive principle of Protestantism—the right of private judgment in matters of religion.

MR. ROUNDELL PALMER said, that the hon. Member who had last addressed the House had stated that in his opinion the question under their notice was one to which the old rule was applicable—

“That they should take who have the power,  
And they should keep who can.”

Now, if the hon. Member had not set him the example, he might have thought it uncourteous to have made that quotation with reference to those to whom it might apply. But as the hon. Gentleman had so stated the question, he would appeal to the candour of the House to consider upon what side, upon that occasion, were those who would “take,” and upon what side those who would “keep.” Those who would “take” were the hon. Gentlemen opposite, who had come forward to claim that an existing institution should be destroyed—an institution which answered highly important purposes to those who were in possession of it ; while those who would “keep” were the persons who said, “Whatever we can do to improve that institution consistently with the maintenance of it, in the promotion of its existing uses and purposes, we shall willingly endeavour to effect ; but for the sake of those uses we assert that we shall defend that which we consider to be our right—that institution of which we are now in the enjoyment, and which we have so long possessed.” If he thought the question before them was one which related to the withholding of some right unjustly from the Dissenters—if he believed it to be a question of the removal of penalties and disabilities which still existed in their case—if it were a question of religious liberty, the progress of which was retarded, or of civil rights which were denied—he trusted

that he should be among the last to refuse his concurrence to any measure intended for the removal of such grievances. If that were the view he took of the subject before them, he should undoubtedly be disposed to coincide in the opinions which had been put forward by the hon. Member for Meath (Mr. Lucas) and the noble Lord the Member for King's Lynn (Lord Stanley), and to say with them that it would be better at once to come to a decision upon a principle upon which some day or another it was their intention to legislate. But the question before them was not one of a right withheld from, or of a civil penalty or disability inflicted upon, the Dissenters—it was not a mere question of how far, consistently with the maintenance of those public purposes which it had hitherto answered in connection with religion, Dissenters could be admitted to the University of Oxford; still less was it a question of how far it might be expedient to maintain the particular test of subscription to the Thirty-nine Articles. The question, indeed, was one of a totally different character—one which, without entering into the consideration that ulterior legislation with respect to it must, as always in the case of every public institution, be vested in the House of Commons, might properly be remitted to the decision of the University itself. Now, while upon that point, he should endeavour to answer a question which had been put by the hon. Member who had just sat down, in the course of a speech of great power and ability—namely, what were the Universities of this country? Now he would ask, what did we mean when we called those Universities national institutions? For in the words “national institution” he thought there lurked a fallacy, upon which a claim of right to admission to the Universities was urged upon the one side, and resisted on the other. He could not answer the question, “What are the Universities?” except by referring to their history, both past and present. What was their past history? Why, from a period of the remotest antiquity—tradition said from the reign of King Alfred—the University of Oxford had always been a great public school for religious education in connection with and upon the principles of the Established Church for the time being. He said for the time being, because the University had always followed the fortunes and changes of the Church; and it had always maintained that specific and dis-

tinctive character. It had been national because the Established Church was national, and had ever been so, and because it had ever been actually, historically, and practically connected with that Church. The Universities, from their very origin, had existed as well for the promotion of religion as for the spread of education. There was no period in our history in which Dissenters had been in the enjoyment of any rights or privileges in connection with these institutions. To say, therefore, that to keep up a state of things which had hitherto prevailed, was to take from the Dissenters something to which they were entitled, was simply to beg the whole question upon which the House of Commons was called upon that night to determine. Now, passing from the historical character of the University of Oxford in ancient times, he must proceed to ask how it had fulfilled its mission? Whence had its endowments been derived? The endowments of the University, properly so called, were small indeed. Its main endowment arose from the profits which were derived from the monopoly which it enjoyed of printing the English translation of the Bible—a monopoly which had been conferred upon the University expressly in consequence of its connection with the Established Church and its ecclesiastical functions and character. That constituted the main source of emolument in the case of the University as distinct from the colleges. Whence, then, he would ask, were the college endowments derived? They were derived, not from a grant made by the State, but from donations and bequests sanctioned by the law; and which, in almost every instance, had emanated from the liberality of some great ecclesiastic who belonged to the Church of England as established by law for the time being. Now, whatever their mode of dealing with the question before them might be, it was perfectly evident that the Church, as well as the nation, had been subjected to considerable changes under the operation of historical causes, but that neither lost its historic identity in consequence of those changes. The argument upon which his opinions with reference to the case before them were based would be equally applicable if it should be thought by the Legislature expedient to abolish the Church of England altogether, and to set up another on its ruins, constituted out of a mixture of the doctrines maintained by the various

that might be, hon. Members must be aware that the number of students who resided within the walls of Trinity College, Dublin, was very small; that the great majority of its students were non-resident; and that they lived in their own homes, surrounded by all the restraints and advantages of domestic discipline. It was, in short, quite obvious that the state of things which must prevail in the case of the students at Trinity College, in a great metropolis like Dublin, must be entirely different from that which existed in the case where a large number of students were concentrated in a small city like Oxford, at a distance from home, and freed from all the restraints of domestic discipline. Having made these observations, he did not feel that he was called upon, in the discharge of his duty, to trouble the House at much greater length. He, however, thought they had received an instructive hint from the hon. Member for Meath (Mr. Lucas) as to the practical effect of carrying out this principle. He said, "If the Roman Catholics feel as I do, they will not go to the University where there is no religious teaching at all, or not Roman Catholic teaching." He ventured to say the same sentiments would be entertained by the great body of Dissenters throughout the country. There might be some moderate Dissenters not unwilling to send their sons to Oxford, but he did not think the body of Dissenters would recognise such a state of things, which left such an ascendancy in the hands of the Church as to make it in the highest degree probable that the result of going to that University would be to detach their children from the tenets of their own denomination. The result would be one or other alternative—either urging the claim of secular, as against religious instruction, as in the case of national education, or the Dissenters would see that, after all, the concession was of no use to them. If either of those alternatives would follow, it was a good reason why they should not accede to the Resolution, because practically it would not remove the alleged grievance—in other words, it would be destroying the University, its use and value to the nation, and even to the Dissenters themselves; it would be destroying its religious character for the sake of admitting Dissenters to that which was now valuable as a place of religious instruction, and, as had been well said in the course of the debate, it would be depriving them of all those circum-

*Mr. R. Palmer*

stances which, in their eyes, as well as in the eyes of members of the Established Church, would eventually be found to constitute dissent.

LORD JOHN RUSSELL: Sir, as the opinions of the hon. and learned Gentleman who has just sat down are so very different from those which I entertain, although we may probably be found in the same lobby when we come to divide, I am anxious to distinguish my opinions from those which he has just delivered to the House. There are, as it appears to me, two questions involved in the present debate—one is as to the admission of Dissenters to the University of Oxford, considered as a measure fit to be adopted; the other is, whether, there being a Bill before the House for the better government of the University of Oxford, it is desirable and expedient that such admission, if it is right, should be enacted by one or many of the clauses in that Bill. Now, these questions being quite distinct, I will endeavour to keep them so in the observations that I shall have to address to the House. With respect to the first question, I own I cannot think that any argument which has been urged in this House to-night, or any which I have heard on former occasions, has any conclusive weight against the admission of Dissenters to the University of Oxford. Let us look first to that which has been so often referred to—the main designs of the founders. We must suppose the founders—those, at least, of them who founded colleges in Catholic times—to be in one of two conditions—either we must suppose them to retain the faith and the opinions which they held during their lifetime, or we must suppose that, wishing that the colleges they founded should conform to the opinions of other days—that they would be ready now to entertain the views and opinions which are the prevalent opinions of this day, as they acted according to the prevalent opinions of their own. Upon either of those suppositions can we properly defend the exclusion of Protestant Dissenters? If we take the first case, when such founders were told of the important doctrines of the Catholic Church which were denied by the Church of England; and when they saw the difference between the Church of England and the great majority of Protestant Dissenters, those founders would say, "This first question on which we differ from the Catholic Church is of immeasurably

greater importance than any upon which the Church of England and Protestant Dissenters agree, that it is impossible we can assent to the proposition that one class of these heretics shall be admitted, and the other class shall be excluded." They would consider that those who differed on questions of transubstantiation, of the supremacy of the Pope, and upon other matters, differed on questions so important and so affecting the foundation and root of their faith, that they never could admit that persons belonging to the Church of England should be included in the benefits of the foundation. But if we take the other way, and suppose—and I think it a fair supposition to make—that the founders would wish, if they had the whole state of opinion before them, that the colleges and foundations should conform to the opinion of the present day—then, in that case, they would be disposed to conform to the policy of the present day; and that policy is in favour of admission, and against monopoly and exclusion. The hon. and learned Gentleman who has just spoken said the University of Oxford ought to remain connected with the Church of England, that it was so before the Reformation, that it had been so since, and that it ought to remain so now. Why, Sir, with regard to the period since the Reformation, we must consider that the University of Oxford, like many other institutions, partook of that system of exclusiveness—it may have been necessary exclusiveness—which considered the Roman Catholics and the Protestant Dissenters enemies of the State. If you refer to and examine the arguments made at the time of the corporation and test laws—those laws which excluded Roman Catholics—you will find that that is at the bottom of the objections to the admission of these two classes, that they were considered hostile to the institutions of the State, and consequently unentitled to the benefit of those institutions, and that therefore they should not be admitted. But is any such opinion held now? Is that the opinion of the present day? On the contrary, in regard to all the offices of the State, with one or two exceptions, the Roman Catholics and the Protestant Dissenters are generally admitted to those offices. And let us see how this applies to the University of Oxford. I think it will be generally agreed that the doctrine of exclusion, the doctrine of monopoly, should not be carried further than is absolutely neces-

sary. Now, what is it that is necessary in the University of Oxford? I agree with the hon. and learned Gentleman, that with respect to the offices in the Church, with respect to bishops and to persons holding the cure of souls, it is absolutely necessary that those who hold such offices should be persons conforming to the standard of the Church to which they belong. But how much further can we go in this direction? I think if we go so far as this, and say that, as it was enacted by the Act of Uniformity that the heads of colleges—that is, the persons governing the colleges—should be members of the Church of England, and should give religious instruction according to the standard of the Church of England, we should go quite as far as is necessary in that direction. I agree certainly that it is desirable that religious instruction should be given in the University of Oxford. If I am asked what religious instruction should be given, I must revert to opinions which I think were quoted by the hon. Baronet the Member for the University of Oxford (Sir William Heathcote), which opinions I held when the University College, then called the University of London, was founded. That college was founded for persons of different religious opinions. There was a proposal made by some of those who founded it that there should be lectures given on general Christian topics, but that those lectures should be so general and so vague that persons of all Christian denominations could attend them. It was my opinion that it was much better to have no religious instruction at all than to have a professor so qualified. I, therefore, was one of those who, against the opinions of several persons I highly respected, objected to the institution of such professors and fellowships, and I said it was better only to teach classics and sciences than attempt to meddle with religion at all, if we could not be a religious body. I quite agree that the religious instruction to be given at the University of Oxford should be religious instruction according to the doctrines of the Church of England. When I have said so much, I think I have said all to which the rule of exclusiveness should apply; but when I come to other questions—when I come to such a question as was argued by my noble Friend near me the Member for Tiverton (Viscount Palmerston) in 1834, when he asked if it was necessary that persons should not receive a diploma enabling them to cure fever or

that might be, hon. Members must be aware that the number of students who resided within the walls of Trinity College, Dublin, was very small; that the great majority of its students were non-resident; and that they lived in their own homes, surrounded by all the restraints and advantages of domestic discipline. It was, in short, quite obvious that the state of things which must prevail in the case of the students at Trinity College, in a great metropolis like Dublin, must be entirely different from that which existed in the case where a large number of students were concentrated in a small city like Oxford, at a distance from home, and freed from all the restraints of domestic discipline. Having made these observations, he did not feel that he was called upon, in the discharge of his duty, to trouble the House at much greater length. He, however, thought they had received an instructive hint from the hon. Member for Meath (Mr. Lucas) as to the practical effect of carrying out this principle. He said, "If the Roman Catholics feel as I do, they will not go to the University where there is no religious teaching at all, or not Roman Catholic teaching." He ventured to say the same sentiments would be entertained by the great body of Dissenters throughout the country. There might be some moderate Dissenters not unwilling to send their sons to Oxford, but he did not think the body of Dissenters would recognise such a state of things, which left such an ascendancy in the hands of the Church as to make it in the highest degree probable that the result of going to that University would be to detach their children from the tenets of their own denomination. The result would be one or other alternative—either urging the claim of secular, as against religious instruction, as in the case of national education, or the Dissenters would see that, after all, the concession was of no use to them. If either of those alternatives would follow, it was a good reason why they should not accede to the Resolution, because practically it would not remove the alleged grievance—in other words, it would be destroying the University, its use and value to the nation, and even to the Dissenters themselves; it would be destroying its religious character for the sake of admitting Dissenters to that which was now valuable as a place of religious instruction, and, as had been well said in the course of the debate, it would be depriving them of all those circum-

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stances which, in their eyes, as well as in the eyes of members of the Established Church, would eventually be found to constitute dissent.

LORD JOHN RUSSELL: Sir, as the opinions of the hon. and learned Gentleman who has just sat down are so very different from those which I entertain, although we may probably be found in the same lobby when we come to divide, I am anxious to distinguish my opinions from those which he has just delivered to the House. There are, as it appears to me, two questions involved in the present debate—one is as to the admission of Dissenters to the University of Oxford, considered as a measure fit to be adopted; the other is, whether, there being a Bill before the House for the better government of the University of Oxford, it is desirable and expedient that such admission, if it is right, should be enacted by one or many of the clauses in that Bill. Now, these questions being quite distinct, I will endeavour to keep them so in the observations that I shall have to address to the House. With respect to the first question, I own I cannot think that any argument which has been urged in this House to-night, or any which I have heard on former occasions, has any conclusive weight against the admission of Dissenters to the University of Oxford. Let us look first to that which has been so often referred to—the main designs of the founders. We must suppose the founders—those, at least, of them who founded colleges in Catholic times—to be in one of two conditions—either we must suppose them to retain the faith and the opinions which they held during their lifetime, or we must suppose that, wishing that the colleges they founded should conform to the opinions of other days—that they would be ready now to entertain the views and opinions which are the prevalent opinions of this day, as they acted according to the prevalent opinions of their own. Upon either of those suppositions can we properly defend the exclusion of Protestant Dissenters? If we take the first case, when such founders were told of the important doctrines of the Catholic Church which were denied by the Church of England; and when they saw the difference between the Church of England and the great majority of Protestant Dissenters, those founders would say, "This first question on which we differ from the Catholic Church is of immeasurably

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sary. Now, what is it that is necessary in the University of Oxford? I agree with the hon. and learned Gentleman, that with respect to the offices in the Church, with respect to bishops and to persons holding the cure of souls, it is absolutely necessary that those who hold such offices should be persons conforming to the standard of the Church to which they belong. But how much further can we go in this direction? I think if we go so far as this, and say that, as it was enacted by the Act of Uniformity that the heads of colleges—that is, the persons governing the colleges—should be members of the Church of England, and should give religious instruction according to the standard of the Church of England, we should go quite as far as is necessary in that direction. I agree certainly that it is desirable that religious instruction should be given in the University of Oxford. If I am asked what religious instruction should be given, I must revert to opinions which I think were quoted by the hon. Baronet the Member for the University of Oxford (Sir William Heathcote), which opinions I held when the University College, then called the University of London, was founded. That college was founded for persons of different religious opinions. There was a proposal made by some of those who founded it that there should be lectures given on general Christian topics, but that those lectures should be so general and so vague that persons of all Christian denominations could attend them. It was my opinion that it was much better to have no religious instruction at all than to have a professor so qualified. I, therefore, was one of those who, against the opinions of several persons I highly respected, objected to the institution of such professors and fellowships, and I said it was better only to teach classics and sciences than attempt to meddle with religion at all, if we could not be a religious body. I quite agree that the religious instruction to be given at the University of Oxford should be religious instruction according to the doctrines of the Church of England. When I have said so much, I think I have said all to which the rule of exclusiveness should apply; but when I come to other questions—when I come to such a question as was argued by my noble Friend near me the Member for Tiverton (Viscount Palmerston) in 1834, when he asked if it was necessary that persons should not receive a diploma enabling them to cure fever or

perform surgical operations unless they made a profession of faith according to a particular Church—I own it appears to me that regulations might easily be made (if they were willing to make them) by the authorities of the University and by the authorities of the colleges that those persons who belong to families, whether of Protestant Dissenters or Roman Catholics, should receive all that instruction in science, all that instruction in classics, and all that instruction in arts, which persons belonging to the Church of England receive. Why, Sir, this is, after all—I don't care whether it is a national institution or not—this is, after all, a great national object, that if you have a University with a revenue of 150,000*l.* a year, and have connected with that University men specially qualified to teach, men in the possession of great acquirements in science and learning, it is desirable, as far as possible, that the nation should partake of the benefits of such an institution, and that you should not, by setting up a bar at the very entrance of the University, deprive a great portion of the people of those advantages. Take a young man who is qualified to become a very eminent lawyer, or a very skilful physician. Is it not a great evil and a great grievance that, because that man is the son of a Roman Catholic or a Protestant Dissenter, he should be thereby debarred from the advantages which such a University holds out, and be unable to acquire that learning and skill which would enable him to practise his profession with success? I own I cannot find that there is any reason whatever in the objections made by the hon. and learned Gentleman who spoke last, and others, to admission, so far, of Dissenters to the benefits of the Universities. A young man under those circumstances certainly could not have the benefit of instruction in the doctrines of the Church of England. At the same time there is some truth—though men in these days would hardly agree in such an opinion—there is some truth in the opinion more than once expressed by Dr. Johnson, that the differences of Christians among themselves, after all, are more political than religious—that there have been great political differences among Christian sects, but that the religious differences are not so important as they at first sight appear to be. That is the opinion of Dr. Johnson. It is impossible, I think, to subscribe wholly to that opinion, but at the same

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time it is quite obvious that political influences among Christians have greatly aggravated and embittered these religious differences. But, Sir, with regard to the young men who would then be unable to receive the religious instruction of the Church of England, it is a matter for their parents and guardians rather than for us, to consider if their religious faith would be safe in the University of Oxford. An hon. Gentleman who has spoken to-night—the hon. Member for Meath (Mr. Lucas)—has said that if Roman Catholics were admitted to the University of Oxford, he does not think they would be disposed to take advantage of that admission. I have heard with respect to Cambridge, where Protestant Dissenters were admitted for a long period, and where, whether it was from the fashion of the day, or from the feelings and customs of the colleges to which they belonged, from whatever cause it might happen, some young men, the sons of Protestant Dissenters, conformed to the Church of England when they were in that University. But as I have already said, that is a matter for the parents and guardians to consider. What is the duty of the State, and what I think more peculiarly the duty of the University as a national institution, is, to open the door, and whether these persons choose to enter or not is a matter entirely for their own consideration. I do not deny that the general character of the University of Oxford would still remain Church of England, and therefore most of those who went there would go to an institution of their own creed. But, Sir, with regard to the second clause of my hon. Friend (Mr. Heywood), I must say I cannot see the policy or even the justice of the distinction which was taken by the noble Lord the Member for King's Lynn, when he said he agreed that Dissenters should enter the University of Oxford as students, but he would not allow them to proceed to take degrees in the University.

LORD STANLEY: What I said was, that I thought it impossible to admit the Dissenters to hold office in the colleges, but I wished to admit them to all other privileges.

LORD JOHN RUSSELL: I certainly understood the noble Lord to say that he would not permit Dissenters to take degrees; but of course his own intimation is sufficient to remove any misapprehension upon that point. But the second clause says that—

“It shall not be necessary for any person, upon taking any of the degrees in arts, law, or medicine,

usually conferred by the said University of Oxford, to make or subscribe any declaration, or to take any oath, save the oath of allegiance, or an equivalent declaration of allegiance, any law or Statute to the contrary notwithstanding." Of course the noble Lord did not object to that Resolution; it appears to follow naturally and logically from the first. It would otherwise be saying, "I think it a great hardship to exclude Dissenters from the University, and if I admit them, I know their proficiency, and that they will outstrip all competitors in learning." In such a case, to say they shall not proceed to take up degrees would be a much greater hardship than the present exclusion that exists. I would go so far as to say that, though they should not be admitted to the immediate governing body of the colleges, yet with respect to any fellowship which does not immediately concern the government of the University, and with respect to any emolument which might enable them hereafter to pursue the different professions of law or medicine, or any other branch of study that would aid their progress in life, there is no objection to the admission of Dissenters. I think the line might be drawn there. The governing body of the University and the colleges should be composed of those who belong to the Church of England, but the exclusion and monopoly should not go beyond that. The hon. and learned Gentleman who last addressed the House said, that Trinity College, Dublin, was not a case in point. It is only not in point because the young men there do not reside in the college, but it is in point so far as you have young men differing in religious faith from the University studying there, and obtaining degrees in that University. So far—and that seems to me the greater portion of the case—so far it is an example extremely in point. I have now said that I think the admission of Dissenters should be conceded, and I have even pointed out the extent to which, in my opinion, it should be conceded. I come now to the question as to whether or not the clauses of my hon. Friend the Member for North Lancashire should be inserted in this Bill. Sir, I am certainly somewhat restricted upon this question by the opinions which I have stated in former years. I stated in former years, that I thought the questions of the admission of Dissenters, and the improvement of the governing body and the studies of the University of Oxford, were two totally distinct questions, and that it would be desirable to keep them so. I retain that opinion now. If my opinion

were altered, I should certainly be at liberty so to declare it, but I retain that opinion now. I think we have a Bill before us which tends very greatly to the improvement of the University of Oxford, which is not only a considerable reform in itself, but which is intended as the commencement of reforms to be carried into effect in this and succeeding years. I can, however, understand the declaration which has been made to-night by the right hon. Gentleman the Member for Manchester (Mr. M. Gibson). He says, "Here is a Bill that is of no value; indeed, it would be rather better, perhaps, for the improvement of Oxford, that it should be thrown out, and another Bill brought in." Now, Sir, I certainly take a different view of the question. I wish the Bill, which improves the University system, to pass in its present shape. The measure as it stands keeps clear of the question whether Dissenters shall be admitted to the University at all—whether they shall be admitted to all its benefits or to only a portion of them. Besides, the hon. Member for North Lancashire admitted that the clauses he has now proposed would not effect his object, and that for that purpose it would be necessary to recommit the Bill and propose other clauses in Committee. I am sure the hon. Member means nothing but what is perfectly fair, but I think it would have been doing only what was right and respectful to the House, if the hon. Member had explained the machinery by which he expects to carry his object into effect. There can be no doubt, that the success of the present Motion would delay the Bill for another week at least, and that the mere efflux of time would endanger the passing of the measure. Besides, I think it very probable that the insertion of the clauses would ensure the rejection of the Bill on the second reading in the other House. The noble Lord the Member for King's Lynn (Lord Stanley) holds this matter very cheaply; he thinks we ought not to attend to it at all, and conceives it to be a reflection on our courage to refrain from enacting what we think politic and right; yet, Sir, I remember some twenty years ago standing by another noble Lord who proposed to strike out a clause from a Bill to which he attached great importance—the Church Temporalities (Ireland) Bill—although he laid great stress on the clause and dilated on it on introducing the measure. Why did he act thus? Because he

thought that the retention of the clause would endanger the second reading of the Bill in the other House, and therefore he struck it out, although at the time of doing so he continued to approve of it. The noble Lord who did this bore then the name which the noble Member for King's Lynn now bears. I stood by him upon that occasion, and I certainly did not conceive that the noble Lord showed any want of courage, because he acted upon prudential considerations. In the present case, however, the question does not regard the striking out of a clause which the Government deliberately introduced into the Bill when they framed it, but the admission of a clause proposed now for the first time, and supported by some who are not at all friendly to the Bill in its general provisions. The right hon. Member for Manchester (Mr. M. Gibson) tells us to do what is right, and says that we shall be wanting in dignity if we do not assert our opinions and leave the other House to assert theirs. That may be a very grand maxim, but I hope it will not be listened to in future days, as it has not been listened to in days which are passed, by the House of Lords. Does the right hon. Gentleman suppose that the House of Lords, when they adopt a Bill, always act in accordance with their own opinions? No such thing. In many instances they adopt Bills in deference to the opinion of the country, as represented in this House? Does the right hon. Gentleman think that in assenting to the repeal of the Corn Laws, the repeal of the Navigation Laws, and to many other measures, the House of Lords were merely following out their own opinion and asserting their own dignity? If the House of Lords should adopt the right hon. Gentleman's maxim and follow his advice, frequent disputes would of necessity occur between the two branches of the Legislature. As it is, the House of Lords frequently, indeed I may say invariably, defers to the opinion of the House of Commons and the country; but in order to carry on the legislation of the country it is necessary that the House of Commons should, from time to time, and upon questions that are not of vital importance, consult what may be the opinions and feelings of the other House of Parliament. For these reasons, I think it would be inexpedient to risk the success of the Bill in the other House by adding the clauses now proposed. I think that, having a Bill which has been considered with very great pains

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and labour by this House, which has been attended to by many of the ablest Members of this House in a manner which showed that they were desirous to consider every detail of it, it is not expedient to risk the fortunes and success of the Bill for the purpose of carrying a measure of a different description. I think it would be desirable, also, that the University of Oxford, with its new and improved institutions, should have an opportunity of considering this question, and of providing for the admission of Dissenters. I believe that if they take up that question in a willing spirit they will be able to carry the proposed change into effect with far more efficient provisions and far more consideration of details than we should ever be able to give to such a measure. I hope they would not attempt, even if these clauses should be inserted in the Bill, to thwart the intentions of Parliament; but I do certainly believe that they would undertake that task with far more unwillingness if it were not to be put upon them by compulsion. But I am quite ready to say that if that should not be the case—if the House should be disappointed in that expectation—I think it would then be right that we should not allow this grievance to continue, but should be prepared to introduce a Bill for securing that great public advantage—the admission of the whole people of the land to the benefits of the University. What should be the provision of that Bill I cannot say, until I have considered the provisions which my hon. Friend (Mr. Heywood) proposes, and until I have considered other measures for the purpose; but of this I feel convinced, that a Bill for that purpose ought to be introduced. Let the House, however, consider that, although this question has been before Parliament many times, many years have elapsed between the periods at which it has been brought forward. It was urged in 1834. I took part in the debate at that time, and voted for the Bill as then introduced. It was not introduced again for a considerable period. It was only introduced, I think, after an interval of six or seven years. That shows at least that those who dissent from the Church of England have not thought this a question of such pressing urgency that they should ask for its immediate settlement. It shows, at least, that they have been willing to wait for the present period. Having waited for the present period, why should they not wait. [*Laughter.*] Why, I say, should

they not wait a year or two longer, when their object is much more likely to be attained? I believe that, if they press the question now, they will utterly fail in carrying it. I believe that, if they press it a year or two hence, they are pretty certain to succeed in carrying it, and I say that it ought to be their object to prefer success to failure. ["Hear, hear!"] The hon. Gentleman who cheers me perhaps thinks that failure will be better. ["Oh!"] For my part, I have always voted for the admission of Dissenters to the Universities whenever the question has been brought on. It is not my fault that the question has not been pressed every year; if it had I should have voted for it, but I cannot consent to the introduction of the clauses into the Bill, because I think it would cause the measure to be defeated.

MR. MILNER GIBSON said, the noble Lord appeared to have misunderstood what fell from him. He did not say that he wished the clauses to be introduced in order to cause the defeat of the Bill, but that the loss of the Bill might be repaired by the introduction of a better measure in a future Session.

MR. HEYWOOD, amidst cries for a division, was understood to say that, upon the present occasion, he was chiefly anxious that the principle involved in his clauses should be established.

Motion made, and Question put, "That the said Clause be now read a Second Time."

The House divided:—Ayes 252; Noes 161: Majority 91.

#### List of the AYES.

Adair, H. E.	Brady, J.
Aglionby, H. A.	Brand, hon. H.
Alcock, T.	Bright, J.
Anderson, Sir J.	Broocklehurst, J.
Annesley, Earl of	Brockman, E. D.
Atherton, W.	Brotherton, J.
Bailey, Sir J.	Brown, H.
Ball, E.	Brown, W.
Ball, J.	Bruce, H. A.
Barnes, T.	Burke, Sir T. J.
Barrington, Visct.	Butt, I.
Bass, M. T.	Byng, hon. G. H. C.
Bateson, T.	Cairns, H. M.
Beamish, F. B.	Campbell, Sir A. I.
Bell, J.	Castlerosse, Visct.
Berkeley, hon. C. F.	Cavendish, hon. C. C.
Biddulph, R. M.	Cavendish, hon. G.
Biggs, W.	Cayley, E. S.
Blackett, J. F. B.	Challis, Mr. Ald.
Blair, Col.	Chaplin, W. J.
Bonham-Carter, J.	Cheetham, J.
Bouverie, hon. E. P.	Christopher, rt. hn. R. A.
Bowler, G.	Clay, Sir W.
Boyle, hon. Col.	Clifford, H. M.

Cobden, R.	Ingham, R.
Coffin, W.	Jackson, W.
Cogan, W. H. F.	Jocelyn, Visct.
Craufurd, E. H. J.	Johnstone, J.
Crook, J.	Keating, R.
Crossley, F.	Keating, H. S.
Currie, R.	Kendall, N.
Davie, Sir H. R. F.	Kennedy, T.
Davison, R.	Kershaw, J.
Denison, J. E.	King, hon. P. J. L.
Dent, J. D.	Kinnaird, hon. A. F.
Dering, Sir E.	Kirk, W.
Divett, E.	Knightley, R.
Dod, J. W.	Lacon, Sir E.
Duff, G. S.	Laing, S.
Duff, J.	Langston, J. H.
Duke, Sir J.	Langton, H. G.
Duncan, G.	Laslett, W.
Duncombe, T.	Layard, A. H.
Dundas, G.	Lee, W.
Dunlop, A. M.	Lennox, Lord H. G.
Dunne, Col.	Liddell, H. G.
Egerton, E. C.	Lindsay, W. S.
Ellice, rt. hon. E.	Locke, J.
Ellice, E.	Lockhart, A. E.
Elliot, hon. J. E.	Lucas, F.
Emlyn, Visct.	Macartney, G.
Ewart, W.	Mackie, J.
Feilden, M. J.	M'Cann, J.
Fergus, J.	MacGregor, John
Fitzgerald, W. R. S.	M'Mahon, P.
Foley, J. H. H.	M'Taggart, Sir J.
Forster, C.	Maguire, J. F.
Forster, J.	Mandeville, Visct.
Fox, R. M.	Mangles, D. R.
Fox, W. J.	Manners, Lord G.
Franklyn, G. W.	Marjoribanks, D. C.
Freestun, Col.	Massey, W. N.
Frewen, C. H.	Miall, E.
Gardner, R.	Milligan, R.
Gaskell, J. M.	Mills, T.
Geach, C.	Milner, W. M. E.
Gibson, rt. hn. H. T. M.	Michell, W.
Gilpin, Col.	Mitchell, T. A.
Glyn, G. C.	Moffatt, G.
Goderich, Visct.	Montgomery, Sir G.
Gower, hon. F. L.	Morris, D.
Greenall, G.	Mostyn, hon. T. E. M. L.
Greene, J.	Mullings, J. R.
Gregson, S.	Muntz, G. F.
Grenfell, C. W.	Murrough, J. P.
Greville, Col. F.	Naas, Lord
Grey, R. W.	Noel, hon. G. J.
Grosvenor, Lord R.	Norreys, Lord
Hadfield, G.	Norreys, Sir D. J.
Hall, Sir B.	North, F.
Hankey, T.	Oakes, J. H. P.
Hastie, Alex.	O'Brien, Sir T.
Hastie, Arch.	O'Brien, C.
Hayes, Sir E.	O'Connell, J.
Headlam, T. E.	Oliveira, B.
Heathcote, G. H.	Otway, A. J.
Heneage, G. F.	Pechell, Sir G. B.
Heyworth, L.	Pellatt, A.
Higgins, G. G. O.	Percy, hon. J. W.
Hindley, C.	Perry, Sir T. E.
Hogg, Sir J. W.	Peto, S. M.
Horsfall, T. B.	Phillips, J. H.
Horsman, E.	Phillimore, J. G.
Howard, hon. C. W. G.	Phinn, T.
Hudson, G.	Pilkington, J.
Hutchins, E. J.	Pinney, W.
Hutt, W.	Pollard-Urquhart, W.

Ponsonby, hon. A. G. J.  
 Potter, R.  
 Price, W. P.  
 Ramaden, Sir J. W.  
 Ricardo, J. L.  
 Ricardo, O.  
 Rich, H.  
 Robartes, T. J. A.  
 Robertson, P. F.  
 Roebuck, J. A.  
 Rok, P.  
 Russell, F. C. H.  
 Sawle, C. B. G.  
 Scholefield, W.  
 Seobell, Capt.  
 Scott, hon. F.  
 Scully, F.  
 Scully, V.  
 Seymour, Lord  
 Seymour, H. D.  
 Seymour, W. D.  
 Shafto, R. D.  
 Shee, W.  
 Sheridan, R. B.  
 Smith, J. A.  
 Smith, J. B.  
 Smith, rt. hon. R. V.  
 Stafford, Marq. of  
 Stanley, Lord  
 Stirling, W.  
 Strickland, Sir G.

Strutt, rt. hon. E.  
 Stuart, Lord D.  
 Tancred, H. W.  
 Thicknesse, R. A.  
 Thompson, G.  
 Thornely, T.  
 Thornhill, W. P.  
 Tollemache, J.  
 Tomline, G.  
 Traill, G.  
 Uxbridge, Earl of  
 Vane, Lord H.  
 Vane, Lord A.  
 Vansittart, G. H.  
 Vernon, G. E. H.  
 Vivian, J. H.  
 Vivian, H. H.  
 Walmsley, Sir J.  
 Whitbread, S.  
 Wickham, H. W.  
 Wilkinson, W. A.  
 Willcox, B. M.  
 Williams, W.  
 Winnington, Sir T. E.  
 Wise, A.  
 Woodd, B. T.  
 Wyvill, M.

## TELLERS.

Heywood, J.  
 Collier, R. F.

*List of the NOES.*

Acland, Sir T. D.  
 A'Court, C. H. W.  
 Adderley, C. B.  
 Archdall, Capt. M.  
 Arkwright, G.  
 Bailey, C.  
 Baldock, E. H.  
 Baring, H. B.  
 Barrow, W. H.  
 Beckett, W.  
 Bective, Earl of  
 Bennet, P.  
 Bentinck, Lord H.  
 Bentinck, G. W. P.  
 Beresford, rt. hon. W.  
 Berkeley, C. L. G.  
 Bethell, Sir R.  
 Bramston, T. W.  
 Bruce, Lord E.  
 Buckley, Gen.  
 Burrell, Sir C. M.  
 Burroughes, H. N.  
 Cecil, Lord R.  
 Chelsea, Visct.  
 Clinton, Lord R.  
 Clive, R.  
 Cobbold, J. C.  
 Cocks, T. S.  
 Codrington, Sir W.  
 Coles, H. B.  
 Colville, C. R.  
 Compton, H. C.  
 Cowper, hon. W. F.  
 Cubitt, Mr. Ald.  
 Deedes, W.  
 Denison, E.  
 Disraeli, rt. hon. B.  
 Drumlanrig, Visct.  
 Ducombe, hon. O.  
 Duncombe, hon. W. E.

Du Pre, C. G.  
 East, Sir J. B.  
 Egerton, Sir P.  
 Egerton, W. T.  
 Elmley, Visct.  
 Evelyn, W. J.  
 Farnham, E. B.  
 Farrer, J.  
 Fellows, E.  
 Ferguson, Sir R.  
 Filmer, Sir E.  
 Floyer, J.  
 Forbes, W.  
 Galway, Visct.  
 Gladstone, rt. hon. W.  
 Goddard, A. L.  
 Gore, W. O.  
 Goulburn, rt. hon. H.  
 Graham, rt. hon. Sir J.  
 Graham, Lord M. W.  
 Granby, Marq. of  
 Grey, rt. hon. Sir G.  
 Gwyn, H.  
 Hale, R. B.  
 Hamilton, G. A.  
 Hamilton, J. H.  
 Harcourt, G. G.  
 Harcourt, Col.  
 Heathcote, Sir W. M.  
 Heneage, G. H. W.  
 Henley, rt. hon. J. W.  
 Herbert, rt. hon. S.  
 Hervey, Lord A.  
 Hildyard, R. C.  
 Hotham, Lord  
 Hughes, W. B.  
 Irton, S.  
 Johnstone, Sir J.  
 Jolliffe, Sir W. G. H.  
 Jones, Capt.

Knatchbull, W. F.  
 Knox, hon. W. S.  
 Langton, W. G.  
 Lascelles, hon. E.  
 Lawley, hon. F. C.  
 Legh, G. C.  
 Lennox, Lord A. F.  
 Liddell, hon. H. T.  
 Lindsay, hon. Col.  
 Lisburne, Earl of  
 Lockhart, W.  
 Lovaine, Lord  
 Lowther, Capt.  
 Luce, T.  
 MacGregor, Jas.  
 Maddock, Sir H.  
 Mallins, R.  
 March, Earl of  
 Masterman, J.  
 Maunsell, T. P.  
 Meux, Sir H.  
 Miles, W.  
 Morgan, O.  
 Mowbray, J. R.  
 Mundy, W.  
 Napier, rt. hon. J.  
 Neeld, John  
 Newark, Visct.  
 Newdegate, C. N.  
 North, Col.  
 Ossulston, Lord  
 Packe, C. W.  
 Pakington, rt. hn. Sir J.  
 Palmer, Rob.  
 Palmer, Round.  
 Palmerston, Visct.  
 Parker, R. T.  
 Peel, Sir R.  
 Peel, F.  
 Peel, Col.  
 Pennant, hon. Col.  
 Phillimore, R. J.

Portal, M.  
 Powlett, Lord W.  
 Pritchard, J.  
 Pugh, D.  
 Repton, G. W. J.  
 Russell, Lord J.  
 Sanders, G.  
 Seymour, H. K.  
 Shirley, E. P.  
 Smijth, Sir W.  
 Smith, W. M.  
 Smith, A.  
 Somerset, Capt.  
 Sotherton, T. H. S.  
 Spooner, R.  
 Stafford, A.  
 Stanhope, J. B.  
 Starkie, Le G. N.  
 Sutton, J. H. M.  
 Taylor, Col.  
 Thesiger, Sir F.  
 Tudway, R. C.  
 Tyler, S. G.  
 Tyrell, Sir J. T.  
 Villiers, hon. F.  
 Vyse, Col.  
 Waddington, H. S.  
 Walcott, Adm.  
 Walpole, rt. hon. S. H.  
 West, F. R.  
 Whitmore, H.  
 Wigram, L. T.  
 Willoughby, Sir H.  
 Wood, rt. hon. Sir O.  
 Wortley, rt. hon. J. S.  
 Wynn, Lt. Col.  
 Wynne, W. W. E.  
 Yorke, hon. E. T.  
 Young, rt. hon. Sir J.

## TELLERS.

Hayter, rt. hon. W. G.  
 Mulgrave, Earl of

Clause read 2°, and *added*.

Mr. HEYWOOD said, he could now move the adoption of the second clause.

Mr. COLLIER seconded the Motion.

Clause (From and after the first day of Michaelmas Term, one thousand eight hundred and fifty-four, it shall not be necessary for any person, upon taking any of the degrees in arts, law, or medicine, usually conferred by the said University of Oxford, to make or subscribe any declaration, or to take any oath, save the oath of allegiance, or an equivalent declaration of allegiance, any law or Statute to the contrary notwithstanding) *brought up*, and read 1°.

LORD JOHN RUSSELL: The House, Sir, having declared its opinion so unequivocally on the first clause of the *hon.* Member, I beg to state that it is not my wish to take a division on the second.

Mr. WALPOLE: A word, and only a word, with regard to this second clause. At the present moment the House has simply affirmed this proposition—the ground

taken by my right hon. Friend the Chancellor of the Exchequer—that for the purposes of education there shall be no bar to the admission of Dissenters to the University. The question involved in the second clause, which is now going to be put to the House, is this, whether, for the purposes of government—[“No, no!”] The right hon. Gentleman who cries “No,” cannot have considered the distinctive effect of the two clauses. By the admission of Dissenters under the second clause to the degrees which will enable them to vote in Convocation, a distinct power will be given to the Dissenters to take part in the government of the University. But that is not all. If you pass the second clause, not only will you give to the Nonconformists the powers of government in the University, but you will give them a claim to endowments, which were not left with that intention. I am surprised at the noble Lord’s giving up this principle, as he seems to do; but before it is done, I appeal most earnestly to the Government to persevere in their opposition to the second reading of this clause, and I do not despair that, if they will hold firm to the position which they took up at the commencement of this evening, they will be able to carry into effect their own proposition, which is, that since you have given freedom to the University, and freedom to the colleges, you shall leave to them an option, and intrust to them a discretion as to whether Dissenters are to be admitted into the University for the purposes mentioned, upon what terms they are to be admitted, in what way they are to be admitted, so as not to interfere with the general discipline of the University, or with the religious education which alone ought to be continued within the precincts of the University. Whether the noble Lord will now cry “Aye,” after having hitherto cried “No,” I do not pretend to say—whether I shall go into the lobby alone I know not; but I will raise my voice and give my vote against this second clause, and the only words which I will add are, that the Government are bound to support me.

**LORD JOHN RUSSELL:** I beg to say that what I said was, that I did not wish to divide the House, after the unequivocal expression of its opinion. But having argued against this clause, if there is a division, I shall most certainly vote against it.

Motion made, and Question put, “That the said Clause be now read a Second Time.”

The House divided:—Ayes 196; Noes 205: Majority 9.

### List of the AYES.

Adair, H. E.	Fox, W. J.
Aglionby, H. A.	Freestun, Col.
Alcock, T.	Gardner, R.
Anderson, Sir J.	Gaskell, J. M.
Atherton, W.	Geach, C.
Ball, E.	Gibson, rt. hon. T. M.
Ball, J.	Glyn, G. C.
Barnes, T.	Goderich, Visot.
Bass, M. T.	Gower, hon. F. L.
Beamish, F. B.	Greene, J.
Bell, J.	Gregson, S.
Berkeley, hon. C. F.	Grenfell, C. W.
Biddulph, R. M.	Greville, Col. F.
Biggs, W.	Grey, R. W.
Blackett, J. F. B.	Grosvenor, Lord R.
Bonham-Carter, J.	Hadfield, G.
Bouverie, hon. E. P.	Hall, Sir B.
Bowyer, G.	Hankey, T.
Boyle, hon. Col.	Hastie, Alex.
Brady, J.	Hastie, Arch.
Brand, hon. H.	Headlam, T. E.
Bright, J.	Heyworth, L.
Brooklehurst, J.	Higgins, G. G. O.
Brockman, E. D.	Hindley, C.
Brotherton, J.	Hogg, Sir J. W.
Brown, H.	Horsman, E.
Brown, W.	Howard, hon. C. W. G.
Bruce, H. A.	Hutchins, E. J.
Burke, Sir T. J.	Hutt, W.
Butt, I.	Ingham, R.
Byng, hon. G. H. C.	Jackson, W.
Castlerosse, Visot.	Johnstone, J.
Cavendish, hon. C. G.	Keating, R.
Cayley, E. S.	Keating, H. S.
Challis, Mr. Ald.	Kennedy, T.
Cheetham, J.	Kershaw, J.
Clay, Sir W.	King, hon. P. J. L.
Clifford, H. M.	Kirk, W.
Cobden, R.	Lacon, Sir E.
Coffin, W.	Laing, S.
Cogan, W. H. F.	Langton, H. G.
Collier, R. P.	Laslett, W.
Craufurd, E. H. J.	Layard, A. H.
Crook, J.	Lee, W.
Crossley, F.	Lindsay, W. S.
Currie, R.	Locke, J.
Davie, Sir H. R. F.	Lockhart, A. E.
Denison, J. E.	Lucas, F.
Dent, J. D.	Mackie, J.
Dering, Sir E.	McCann, J.
Divott, E.	MacGregor, John
Duff, G. S.	McMahon, P.
Duff, J.	McTaggart, Sir J.
Duke, Sir J.	Maguire, J. F.
Duncan, G.	Mangles, R. D.
Duncombe, T.	Marjoribanks, D. G.
Dundas, G.	Massey, W. N.
Dunlop, A. M.	Miall, E.
Egerton, E. G.	Milligan, R.
Ellice, rt. hon. E.	Mills, T.
Ellice, E.	Milner, W. M. E.
Elliot, hon. J. E.	Michell, W.
Ewart, W.	Mitchell, T. A.
Fergus, J.	Moffatt, G.
Foley, J. H. H.	Morris, D.
Forster, C.	Mostyn, hon. T. E. M. L.
Forster, J.	Muntz, G. F.
Fox, R. M.	Murreugh, J. P.

Norreys, Lord  
 Norreys, Sir D. J.  
 North, F.  
 O'Brien, Sir T.  
 O'Brien, C.  
 O'Connell, J.  
 Oliveira, B.  
 Otway, A. J.  
 Pechell, Sir G. B.  
 Pellatt, A.  
 Perry, Sir T. E.  
 Peto, S. M.  
 Phillimore, J. G.  
 Phinn, T.  
 Pilkington, J.  
 Pinney, W.  
 Pollard-Urquhart, W.  
 Potter, R.  
 Price, W. P.  
 Ramsden, Sir J. W.  
 Ricardo, J. L.  
 Ricardo, O.  
 Rich, H.  
 Robertes, T. J. A.  
 Roebuck, J. A.  
 Russell, F. C. H.  
 Scholefield, W.  
 Scobell, Capt.  
 Scully, F.  
 Scully, V.  
 Seymour, Lord  
 Seymour, H. D.

Seymour, W. D.  
 Shafto, R. D.  
 Shee, W.  
 Sheridan, R. B.  
 Smith, J. A.  
 Smith, J. B.  
 Smith, M. T.  
 Smith, rt. hon. R. V.  
 Strickland, Sir G.  
 Strutt, rt. hon. E.  
 Stuart, Lord D.  
 Tancred, H. W.  
 Thicknesse, R. A.  
 Thompson, G.  
 Thornely, T.  
 Traill, G.  
 Uxbridge, Earl of  
 Vane, Lord H.  
 Vivian, J. H.  
 Vivian, H. H.  
 Walmsley, Sir J.  
 Whitbread, S.  
 Wickham, H. W.  
 Wilkinson, W. A.  
 Wilcox, B. M.  
 Williams, W.  
 Wise, A.  
 Wyvill, M.

## TELLERS.

Heywood, J.  
 Kinnaird, hon. A. F.

*List of the NOES.*

Acland, Sir T. D.  
 A'Court, C. H. W.  
 Adderley, C. B.  
 Annesley, Earl of  
 Archdall, Capt. M.  
 Arkwright, G.  
 Bailey, Sir J.  
 Bailey, C.  
 Baldock, E. H.  
 Baring, H. B.  
 Barrington, Visct.  
 Barrow, W. H.  
 Bateson, T.  
 Beckett, W.  
 Bective, Earl of  
 Bennet, P.  
 Bentinck, Lord H.  
 Bentinck, G. W. P.  
 Beresford, rt. hon. W.  
 Berkeley, C. L. G.  
 Bethell, Sir R.  
 Blair, Col.  
 Bramston, T. W.  
 Bruce, Lord E.  
 Buckley, Gen.  
 Burrell, Sir C. M.  
 Burroughes, H. N.  
 Cairns, H. M.  
 Campbell, Sir A. I.  
 Cavendish, hon. G.  
 Cecil, Lord R.  
 Chaplin, W. J.  
 Chelsea, Visct.  
 Christopher, rt. hon. R. A.  
 Clinton, Lord R.  
 Clive, R.  
 Cobbold, J. C.  
 Cocks, T. S.  
 Codrington Sir W.  
 Coles, H. B.  
 Colville, C. R.  
 Compton, H. C.  
 Cowper, hon. W. F.  
 Culbitt, Mr. Ald.  
 Davison, R.  
 Deedes, W.  
 Denison, E.  
 Disraeli, rt. hon. B.  
 Dod, J. W.  
 Drumlanrig, Visct.  
 Duckworth, Sir J. T. B.  
 Duncombe, hon. O.  
 Duncombe, hon. W. E.  
 Du Pre, C. G.  
 East, Sir J. B.  
 Egerton, Sir P.  
 Egerton, W. T.  
 Elmley, Visct.  
 Emlyn, Visct.  
 Evelyn, W. J.  
 Farnham, E. B.  
 Farrer, J.  
 Feilden, M. J.  
 Fellowes, E.  
 Ferguson, Sir R.  
 Filmer, Sir E.  
 Fitzgerald, W. R. S.  
 Floyer, J.  
 Forbes, W.  
 Franklyn, G. W.  
 Frewen, C. H.  
 Galway, Visct.  
 Gilpin, Col.  
 Gladstone, rt. hon. W.  
 Goddard, A. L.  
 Gore, W. O.  
 Goulburn, rt. hon. H.  
 Graham, rt. hon. Sir J.

Graham, Lord M. W.  
 Granby, Marq. of  
 Greenall, G.  
 Greene, T.  
 Grey, rt. hon. Sir G.  
 Gwyn, H.  
 Hale, R. B.  
 Hamilton, G. A.  
 Hamilton, J. H.  
 Harcourt, G. G.  
 Harcourt, Col.  
 Heathcote, Sir G. J.  
 Heathcote, G. H.  
 Heathcote, Sir W.  
 Heneage, G. H. W.  
 Heneage, G. F.  
 Honley, rt. hon. J. W.  
 Herbert, rt. hon. S.  
 Hervey, Lord A.  
 Hildyard, R. C.  
 Hotham, Lord  
 Hudson, G.  
 Hughes, W. B.  
 Irton, S.  
 Johnstone, Sir J.  
 Jolliffe, Sir W. G. H.  
 Jones, Capt.  
 Kendall, N.  
 Knatchbull, W. F.  
 Knightley, R.  
 Knox, hon. W. S.  
 Langton, W. G.  
 Lascelles, hon. E.  
 Lawley, hon. F. C.  
 Legh, G. C.  
 Lennox, Lord A. F.  
 Liddell, H. G.  
 Liddell, hon. H. T.  
 Lindsay, hon. Col.  
 Lisburne, Earl of  
 Lockhart, W.  
 Lovaine, Lord  
 Lowther, Capt.  
 Luce, T.  
 Macartney, G.  
 MacGregor, Jas.  
 Maddock, Sir H.  
 Malins, R.  
 Mandeville, Visct.  
 Manners, Lord G.  
 March, Earl of  
 Masterman, J.  
 Maunsell, T. P.  
 Meux, Sir H.  
 Miles, W.  
 Montgomery, Sir G.  
 Morgan, O.  
 Mowbray, J. R.  
 Mullings, J. R.  
 Mundy, W.  
 Napier, rt. hon. J.  
 Neeld, John  
 Newark, Visct.  
 Newdegate, C. N.  
 Noel, hon. G. J.  
 North, Col.  
 Oakes, J. H. P.  
 Ossulston, Lord  
 Packe, C. W.  
 Pakington, rt. hn. Sir J.  
 Palmer, Rob.  
 Palmer, Round.  
 Palmerston, Visct.  
 Parker, R. T.  
 Peel, Sir R.  
 Peel, F.  
 Peel, Col.  
 Percy, hon. J. W.  
 Phillimore, R. J.  
 Ponsonby, hon. A. G. J.  
 Portal, M.  
 Powlett, Lord W.  
 Pritchard, J.  
 Pugh, D.  
 Repton, G. W. J.  
 Robertson, P. F.  
 Rolt, P.  
 Russell, Lord J.  
 Sanders, G.  
 Sawle, C. B. G.  
 Seymour, H. K.  
 Shirley, E. P.  
 Smijth, Sir W.  
 Smith, W. M.  
 Smith, A.  
 Somerset, Capt.  
 Sotherton, T. H. S.  
 Spooner, R.  
 Stafford, A.  
 Stanhope, J. B.  
 Starkie, Le G. N.  
 Sutton, J. H. M.  
 Taylor, Col.  
 Thesiger, Sir F.  
 Thornhill, W. P.  
 Tollemache, J.  
 Tudway, R. C.  
 Tyler, Sir G.  
 Tyrell, Sir J. T.  
 Vansittart, G. H.  
 Vernon, G. E. H.  
 Villiers, hon. F.  
 Vyse, Col.  
 Waddington, H. S.  
 Walcott, Adm.  
 Walpole, rt. hon. S. H.  
 West, F. R.  
 Whitmore, H.  
 Wigram, L. T.  
 Willoughby, Sir H.  
 Wood, rt. hon. Sir C.  
 Woodd, B. T.  
 Wortley, rt. hon. J. S.  
 Wynn, Lt. Col.  
 Wynne, W. W. E.  
 Yorke, hon. E. T.  
 Young, rt. hon. Sir J.

## TELLERS.

Hayter, rt. hon. W. G.  
 Mulgrave, Earl of

LORD JOHN RUSSELL said, he proposed that they should postpone the further proceeding with this Bill until to-morrow, taking it as the first thing at five o'clock. In the meantime he would take the liberty to say that it was most desirable

that the Bill should go up early to the House of Lords; and he therefore hoped that the House would consent to its being read a third time on Monday next.

In answer to a question from Mr. L. WIGRAM,

THE CHANCELLOR OF THE EXCHEQUER said, that the Government would not propose any more Amendments on the Report, excepting those which they themselves and the House also would consider to be conformable to the understanding that had been come to on the subject. If the Government should, however, have any material Amendments to propose in the Bill, they would propose them on the third reading, and of course they would give due notice of their intention to do so.

MR. BRIGHT said, he did not know whether the hon. Member for North Lancashire (Mr. Heywood) would be disposed to take the sense of the House over again on the third reading of this Bill upon the clause which the House had just rejected; but if the hon. Gentleman was not disposed to do so, he (Mr. Bright) begged now to give notice that he would bring it forward again himself. The division upon the second clause of his hon. Friend had been so peculiar that he hoped his hon. Friend would ask the House to reconsider its decision. He would be fully justified in doing so, because the noble Lord the leader of the House had told them that the second clause followed naturally and logically from the first; and after that expression of opinion from so high an authority, as well as after the unanswerable arguments of the noble Lord in two-thirds of his speech, accompanied only by one-third with which he (Mr. Bright) could not agree, he trusted that when the question came to be reconsidered on Monday next—if that was the day for it—the noble Lord would have found the means of converting one or two of the Gentlemen who sat very near to him; and then he (Mr. Bright) would have great hopes that the House would be able to settle this question. He would not speak of this clause as a thing of enormous magnitude—he did not conceive that it was such—but he thought the hon. Gentlemen who had voted against it would feel that it was hardly worth while to keep this question hanging over and in a state of suspense, till, perhaps, only next year, or some other time not very far off; and, having agreed to the first proposition of his hon. Friend, what so

natural—[*Laughter*—]—then, if hon. Gentlemen liked, he would say what so generous, because he was sure there were men on the other side of the House who no more desired to be exclusive, or to do what was illiberal or unfair, than many of those who had voted on his own side of the House; and he should not put it to them now in the way of argument, although he thought the discussion they had just had on the subject was an exceedingly interesting one; but as no doubt many hon. Gentlemen on the other side must have voted against the clause without any very strong opinions on the question, but because they generally desired, if possible, to support their party, he ventured to hope that in a few days they would be able to carry the second clause, perhaps without a division, or, at all events, that there would be a fair majority in favour of its being added to the first. He did not know if he was altogether in order, but he would make another remark. The noble Lord the Member for the City of London (Lord John Russell) spoke of the other House, and pointed out how it had often conceded matters of this kind in deference to the opinion of the country and of that House. Now, he (Mr. Bright) would recommend the noble Lord and that House to invite the House of Lords to take the same very admirable course upon this question, and he doubted if anything would be more calculated to strengthen their position with the country than their assenting to the principle of equality and generosity on topics of this description.

MR. HEYWOOD said, he begged to state that he intended to move his second clause again on the third reading of the Bill. The more the question was discussed, the better he believed it would be for the cause he advocated.

MR. NEWDEGATE said, he was convinced that a great number of hon. Members did not exactly understand the connection that existed between the first and second clauses. ["Oh, oh!"] Hon. Members might cry "Oh!" but he trusted and believed that those hon. Members not in London at present would be in their places on Monday, and, instead of the majority they had seen in favour of the clause, there would be something more like a legitimate expression of the feeling of members of the Church of England on this point. He was quite confident that such a change would be seen in the numbers of the two divisions as would indicate clearly that there had been a misunderstanding on the subject.

Further proceeding *adjourned till Tomorrow.*

#### EXCISE DUTIES (SUGAR) BILL.

Order for Third Reading read.

MR. THOMSON HANKEY said, he must complain that, after the House had agreed to the fixing of the 5*s.* 2*d.* as the difference of duty upon sugar used in breweries, the amount was now proposed to be raised to 7*s.* This was placing an additional duty upon the importers of sugar, and subjecting them to a grievance to which they ought not to be exposed; and he hoped the House would not consent to the third reading of the Bill till the matter had been fully discussed and explained. He thought if the amount was fixed at 6*s.*, it would be fully as high as in justice it ought to be.

MR. J. WILSON said, that it had been agreed by the House, at a former stage of this Bill, that 7*s.* of additional duty should be imposed upon sugar used in breweries in lieu of the malt duty. Since then the matter had been further considered by the revenue officers, and though the result of their investigations had been to uphold very much their previous calculations, it was his intention to propose, after the Bill had been read a third time, to move that 6*s.* 6*d.* be substituted instead of 7*s.*

MR. M'MAHON said, he had given notice of a Motion to encourage the cultivation of beetroot in Ireland, and he hoped that for that purpose the Government would consent to reduce the duty on beetroot sugar in Ireland to one-half of the duty charged upon foreign sugar—a measure which he believed could be carried out without entailing any loss to the public revenue.

MR. E. BALL said, that as the malt duty had been raised 50 per cent, it would be unfair towards the producers of malt if the duty on sugar used in breweries were not subjected to some corresponding increase.

Bill read 3<sup>o</sup>; after which the words 6*s.* 6*d.* were inserted in lieu of 7*s.*

Bill *passed.*

The House adjourned at half after One o'clock.

#### HOUSE OF LORDS.

Friday, June 23, 1854.

M. M. BILLS.—1<sup>o</sup> Excise Duties  
Amendment.

#### COFFEE—ADULTERATION WITH CHICORY.

VISCOUNT TORRINGTON rose to present a petition of Merchants, Bankers, and others interested in the trade and prosperity of Ceylon, against the adulteration of Coffee with Chicory. The petitioners stated that coffee, the chief production of Ceylon, was subjected to a duty of nearly 75 per cent on the London market price, while chicory, with which it was so largely adulterated, was sold at a less price than the duty on coffee; that the intermixture of chicory with coffee had been sanctioned by a minute of the Lords of the Treasury, suspending several Acts of Parliament; and that such authority was a flagrant injustice to the growers of coffee. The petitioners therefore prayed that their Lordships would give their favourable attention to the prayer of this petition, which was not that the Treasury minute might be suspended—not that the duty on coffee might be repealed, but simply that a Committee of their Lordships' House might be appointed to take evidence, and inquire into, and report upon, the whole question of the adulteration of coffee. The noble Lord said, he would remind their Lordships, that the Act 43 Geo. III. c. 129, enacted that no vegetable substance resembling coffee should be permitted on the premises of licensed coffee dealers; but that a Treasury minute of the 27th July, 1852, without suspending the Act of Parliament, extended its operations, and conceded the sale of chicory in labelled packages. The Treasury minute of the 25th of February, 1853, contravened the Act of Parliament, and sanctioned the sale of a mixture of coffee and chicory. The noble Lord said, that the coffee grower did not object, if chicory be thought a cheaper or more palatable beverage than coffee, to its being brought into fair competition with his produce; all he stipulated for was that it be sold as chicory; and the coffee-drinker would benefit in buying coffee or its substitutes under their true names and at their respective values, mixing them according as his taste or economy dictated. During the brief operation of Lord Derby's minute, which recognised a just distinction between coffee and chicory, the consumption of coffee had increased no less than 2,658,012 lbs. in the short space of four months, without any advance in the price of coffee to the consumer, and had such regulation been allowed to continue, and the law stringently supported, a still greater

increase would doubtless have resulted; but, even assuming this low estimate, an augmented consumption of 7,974,036 lbs. was exhibited, yielding to the revenue a sum of no less than 99,675*l.* 9*s.* per annum. Competent authorities—Mr. McCulloch and others—had carefully estimated the annual consumption of chicory in recent years at 12,000 tons, or 26,880,000 lbs.; and had assumed that, by thus displacing a similar quantity of coffee, a sum of 336,000*l.* was fraudulently diverted from the Exchequer. The gravamen of the complaint against the present system was, that chicory was allowed to be sold as coffee. If chicory were sold as such, and for a fair price, there could be no objection; but there was gross injustice in allowing it to be sold as coffee at 1*s.* per lb., when its value was only 4*d.* per lb. When a person asked for ground coffee, the dealer sold him a mixture of chicory and coffee; and this was a practice equally prejudicial to the fair trader and the consumer.

THE EARL OF ABERDEEN said, that this subject was attended with very considerable practical difficulties, and the changes which had taken place with respect to the sale of this article showed that there was great difficulty in reconciling the interests of the consumer and the fair trader. The noble Lord, on a former occasion, very strongly objected to the conduct of the revenue officers, and had remarked upon their remissness in performing the duties imposed upon them by the existing law. On this occasion he had only done so by implication; but, of course, that would add greatly to the objection to the existing minute of the Treasury. To show that at least there had been sufficient activity on the part of the officers of Inland Revenue, he would mention that, in the last year, there had been 6,337 inspections and 690 prosecutions; so that the Board of Inland Revenue could not be said to have failed in their duty. The noble Lord stated that there had been a great falling off in the revenue since the existing minute had been in force. That was a mistake. The importation and consumption of coffee had gradually increased for several years past, and this year more than any other. In 1850, the amount was about 31,000,000 lbs.; in 1851, 32,000,000 lbs.; in 1852, 34,000,000 lbs.; in 1853, 37,000,000 lbs.; and, taking an estimated amount at the same rate as the actual consumption of the present year, as far as it had gone, in 1854 it would be

38,597,000 lbs. That at least proved that there had been no diminution in the consumption of coffee in consequence of the regulation. The noble Lord also mentioned a practice, which no doubt prevailed to a considerable extent, that grocers were in the habit of adulterating every article sold as a mixture of coffee and chicory.

VISCOUNT TORRINGTON begged to correct the noble Earl. He complained that, if they asked for coffee, the answer of the trader was, "This is what we sell for coffee," giving a mixture of coffee and chicory.

THE EARL OF ABERDEEN could only say, if they sold an article for coffee and that article was mixed, they could equally be prosecuted whether it was labelled or not. Such a practice was easily put a stop to, and would be corrected by a few prosecutions instituted for the purpose. No doubt it seemed very natural and very simple to say, "Why not let a man buy what he likes?—let him buy coffee if he wants coffee, and chicory if he wants chicory." It sounded very natural and very easy; but the fact was, the poor bought in such small quantities, two or three ounces at a time, that the quantity of chicory mixed was scarcely appreciable, and to make different packages would create additional expense, by which they would suffer instead of being benefited. That was the reason why it had been considered necessary, for the sake and convenience of the poor man, that coffee should be mixed for him, instead of being sold in separate parcels. He thought that, considering the gradual and great increase in the consumption of coffee, there was no hardship or grievance to complain of, and that the increase in the revenue ought to satisfy their Lordships that the present system worked well, and ought not to be disturbed. At the same time, if any improvement could be made in the regulations of the Board of Revenue, for the prevention of fraud, it would receive the attention of that department. The officers of Inland Revenue had brought to the Chancellor of the Exchequer ninety-six different samples of coffee purchased at different shops. They were analysed, and the result turned out to be—of pure coffee seven, of mixture properly labelled seventy-three, of mixture not properly labelled four, and of mixture not labelled at all twelve. Now, it was very probable that the mixture which was properly labelled might have been sold as real coffee; but

all he could say was, that in all cases where mixture had been sold for coffee, although correctly labelled, prosecutions would be instituted by the Board of Revenue, and henceforth the practice would, if possible, be prevented. The noble Lord had only asked that this subject should receive attention, and, undoubtedly, considering the difficulties which attended it, it did require consideration; but he had not pressed for the appointment of a Committee, and the truth was, it was difficult to see what a Committee could do in the matter.

Petition to lie on the table.

#### MANAGEMENT OF CROWN ESTATES IN IRELAND.

THE EARL OF DONOUGHMORE moved that a Select Committee be appointed to inquire into the management of the Crown Estate of Killoonconce, in the King's County, and into the circumstances attending the occupation of a portion thereof by the Rev. Francis M'Mahon, P.P. of Kinnitty. The management of the Crown Estates in all parts of the United Kingdom had attracted in former years the attention of Parliament, from the fact that they were, without exception, the worst managed properties in the country; and in 1851 an Act was passed for putting them under a different system of management from that which then existed. About that time Mr. Kennedy, who had long held a high office connected with the civil service in Ireland, was appointed Chief Commissioner of the Crown Estates in that country, and the Government trusted that he would be able to improve the administration of the Crown property there. They were not disappointed. Mr. Kennedy made every exertion to improve the Irish estates of the Crown, though he did not receive much assistance from his superiors in office. One of those estates was situated in the King's County; and in 1851 Mr. Kennedy sent a person totally unacquainted with the district—a Scotchman—to examine that estate, and report what steps should be taken for improving its administration. The surveyor reported that the estate was in the greatest possible confusion, that little or no rent had been received from it for four or five years, and that a great portion of it was overrun with a pauper population. In consequence of that representation a considerable sum of public money was expended for the purpose of removing part of the surplus population

—*ri of Aberdeen*

to America, and of giving to others the means of betaking themselves to other parts of the country. He should have stated that the estate had previously been let in small portions, upon leases for twenty-one years. One farm of fifty acres was let to two brothers of the name of Delany, each of whom cultivated a plot of twenty-five acres. Before the expiry of the lease one of the brothers resolved to emigrate, and his moiety of the farm was transferred to the Rev. Francis M'Mahon, the Roman Catholic priest of Kinnitty, who held possession of it in 1851. In his second report the Scotch surveyor recommended that the estate should be divided into thirteen parts, each to be let to a single tenant, and that the two plots which had been leased to the brothers Delany should be joined together and let to the remaining brother Denis. The lease of this portion of the estate had expired in 1850, and therefore the Commissioners were at liberty to deal with it as they might deem advisable. They approved the arrangements suggested by the surveyor, which also received the sanction of the Treasury, and in 1852 Mr. Kennedy resolved to carry it into effect, and for that purpose an intimation was given to the Rev. Francis M'Mahon that his presence as a tenant upon the land was no longer desirable. The rev. gentleman replied by requesting that he might be allowed to reap the crops which were then growing upon the farm; and, upon the understanding that he would remove immediately after the harvest, Mr. Kennedy complied with his request. Mr. M'Mahon reaped his crops, carried them with triumph and rejoicing to the chapel-yard of the parish, and it was said converted the sacred edifice itself into a barn for the purpose of thrashing out his corn. Now, mark the conduct of the rev. gentleman. After he had sold his crops and put the money in his pocket, he refused to give up possession of the land. On the 6th of October he wrote a letter to the Chief Commissioner, complaining of the great hardship he suffered in being called upon to give up his farm without compensation. Mr. Kennedy was naturally surprised at that novel demand, which placed him in a very difficult position, seeing that he had promised the land to Denis Delany. He very properly refused, in peremptory terms, to accede to the request of the priest, and called upon him to redeem the pledge which he had given to leave possession of the farm as soon as he should have secured his crops.

On the 13th of November Mr. M'Mahon addressed another letter to the Commissioner, entering into a long statement of the improvements which he had made on the land, and renewing his demand for compensation. The very same evening the house of Denis Delany was attacked by a band of ruffians, and Delany and his wife were severely beaten. Mr. M'Mahon denied that there was any connection between him and the perpetrators of the outrage, and stated that, on the Sunday following the attack, he spoke to his congregation from the altar upon the subject. It was said, however, that the substance of his discourse was very different from what he had represented it to be. The rev. gentleman was reported to have told his people that he had been shamefully treated by Denis Delany; that he was unable to revenge himself, but that he would not allow any person to interfere between them. Moreover, the fact could be proved that he offered himself on behalf of certain parties who were taken into custody on suspicion of being implicated in the outrage; which showed that, if he was not himself a party to the attack upon Delany's house, he had considerable sympathy with those who were. After some further correspondence, Mr. Kennedy came to the conclusion that nothing but an action at law would enable him to vindicate the rights of the Crown, and accordingly he decided that legal proceedings should be taken against the priest. On the 4th of April, 1853, when these proceedings were approaching maturity, Mr. M'Mahon wrote a long letter to the Chief Commissioner, couched in the most respectful and submissive language, asking for a specific sum as compensation, and, in fact, placing himself entirely at Mr. Kennedy's mercy. The very same day Mr. M'Mahon forwarded to the Treasury a memorial full of abuse of Mr. Kennedy, and of the grossest representations of his conduct. Ignorant of the contents, or even of the existence, of that memorial, the Commissioner, for the sake of peace and quietness, and in order that he might be able to do an act of justice to Dennis Delany, offered to give Mr. M'Mahon 35*l.* if he would give up possession of the farm; but at the same time intimated that if he should refuse that offer it would be absolutely necessary, in order to vindicate the rights of the Crown and preserve the consistency of a great public department, to remove him from the land. That letter was written on the 13th of April. On the 24th, Mr. Kennedy received a positive order

from the Treasury to discontinue the legal proceedings instituted against Mr. M'Mahon, and to accept him as a tenant upon the Crown Estate of Kilconcoue. Such were the circumstances of the case which he desired to bring under their Lordships' notice. It might be said that the case was an unimportant one, but he maintained that it was not so. The question was, first of all, whether an administrative officer presiding over an important public department was to be made a fool of by the Treasury without any justification whatever; and the next question for consideration was, what effect such conduct would have in Ireland, which of all countries in the world was the one in which an example of the just and fair management of landed property was required from the Government. He might be asked what was the key to this enigma? what on earth could have induced the Treasury to conduct themselves as they had done? He did not know; he would leave the noble Earl at the head of the Government to elucidate that point; but this he would say, that in the district where the transactions occurred a very shrewd suspicion existed as to what the cause was. The Rev. Francis M'Mahon, in addition to his spiritual functions, was a dabbler in politics. He held opinions identical with those of the party in Ireland which was connected with the present Government, and was known to have made himself busy as a political supporter of a Gentleman who was once a Lord of the Treasury, and of another Gentleman who was now Solicitor General for Ireland. The inference drawn by the people of the district was, that the conduct of the Treasury was influenced by one of these Gentlemen, and that suspicion was fully corroborated by a pamphlet recently issued on the authority of Mr. Kennedy himself. He could not imagine that the Treasury had ever reflected upon what the effect of their conduct would be in such a country as Ireland. That effect would unquestionably be to weaken the security of landed property, to set a bad example to tenants in a dangerous district, to stultify the servants of the Crown, and to destroy the confidence of poor tenants, whom they should teach to believe that the promise of the Crown once given should be kept *coute qui coute*. He did not accuse the noble Earl opposite, or any other Member of the Cabinet, of having any cognisance of the circumstances which he had stated to their Lordships. The noble Earl, however, was responsible for what

had occurred; and being himself one of the best landlords in the country, he must feel doubly chagrined that he should be served by subordinates who had acted in such an imprudent and improper manner. It was not his intention to bring any charge against the Government in respect of their having allied themselves with a certain political party in Ireland. He believed they would be punished for that offence; and, if he was not mistaken, the noble Duke, the Minister of War, had already suffered. The noble Earl concluded by moving the Select Committee.

THE EARL OF ABERDEEN said, that the only reason which would induce him to object to the Motion of the noble Earl was, that he thought the whole case was before the House in the papers now upon the table. He saw no reason why the noble Lord should not call upon their Lordships to pronounce an opinion upon the merits of the question from the materials which they already possessed; and he was at a loss to conceive what further information a Select Committee could elicit. However, he must be permitted to say that he thought the noble Earl had attached a somewhat exaggerated importance to the transaction, even as it was described by himself, and that he had indulged in many assertions, or at least insinuations, which there was no reason to suppose were well founded. Now, he did not mean to object to a Committee, if their Lordships thought that the matter was of sufficient importance to call for an inquiry, because he was not at all afraid of any investigation that might take place; but he looked at this transaction simply as a question touching the administration of the Crown estates in Ireland. He did not look at it as a question of religious animosity, though, undoubtedly, the whole gist and substance of the noble Earl's speech was based upon the supposition that this unhappy priest had been favoured because he was a Roman Catholic ecclesiastic, and that some of those whom he called the political friends of the Government in Ireland had exercised undue influence on behalf of the rev. gentleman. The noble Earl had said that Mr. M'Mahon converted his chapel into a barn for the purpose of threshing his corn, and had insinuated that he was somehow or other connected with the outrage committed upon Denis Delany and his family. Now, it was but fair to state that the rev. gentleman had given an express denial to any such im-

*The Earl of Donoughmore*

putation, declaring in his memorial to the Treasury that, so far from having any connection with the parties who were guilty of the outrage, he took the first opportunity after the affair happened of denouncing them in the strongest possible language, both in public and in private. The facts of the case were simply these: There was a farm of about fifty acres let to two persons—not brothers, perhaps not even relations—of the name of Delany. Mr. M'Mahon bought what was called the good-will of a moiety of it from one of the tenants. He built a house upon the land; he drained it; he made himself an improving tenant. Then there came a Scotch surveyor, and he recommended, properly enough, that the land should be united and let to a single tenant, instead of being held by two parties. In ordinary circumstances that arrangement would have been followed; but the Rev. Mr. M'Mahon was favoured, not because, as the noble Earl had given them to understand, he was a Roman Catholic priest, but because he was an improving tenant and promised to continue to be so. He could not think that in showing the rev. gentleman that indulgence the Treasury had been guilty of a very grievous offence. Perhaps, if the indulgence had been shown to a good Orangeman, instead of to a Roman Catholic priest, their Lordships would have heard nothing of the matter. He did not intend to go into all the details of the transaction. No doubt the rev. gentleman gave a great deal of trouble, and evinced a disposition, not uncommon in Ireland, to keep possession of the land; but it was expressly stated, in the letter of Mr. Wilson, the Secretary of the Treasury, that he was allowed to remain a tenant upon the same estate, and that the legal proceedings taken against him by Mr. Kennedy were discontinued, because he was an improving tenant, because he had expressed contrition for his refusal to give up possession, and because it had been proved, to the satisfaction of the Lords of the Treasury, that he had denounced the outrage committed against Delany and his family. His only reason for objecting to the appointment of the Committee was, that he considered it unnecessary, as complete information on the subject was afforded by the papers already on the table of the House.

THE EARL OF DONOUGHMORE denied that in bringing forward this Motion he had been actuated by anything like feelings of hostility toward the Roman Catholics,

or partiality towards Orangemen. He was not an Orangeman himself, nor, he was happy to say, were any members of his family. He most sincerely hoped that the time would soon come when the Government of Ireland would, in its distribution of patronage, cease to be affected by any consideration whatever, either of religion or party. With respect to the Motion itself, so far from the Rev. Mr. M'Mahon deserving the commendation which had been bestowed upon him for being an improving tenant; he found, by reference to the papers on the table, that he had burned and pared six acres of his land, and had taken from it four crops in succession, without a particle of manure. If that was the noble Earl's notion of an improving tenant, his tenants in Scotland might hope that the same privilege would be extended to them.

THE EARL OF ABERDEEN stated that no imputation whatever had been thrown upon Mr. Kennedy.

THE EARL OF EGLINTON concurred in the opinion expressed by the noble Earl as to the perfect freedom from all imputation on Mr. Kennedy, who was a gentleman of unblemished reputation, and of the highest talent, who had devoted thirty or forty years of his life to the service of the public. He was at a loss to know why that gentleman had been dismissed, unless it was that in this instance he appeared to have set himself up against the Treasury, and his conduct, in this respect, had to a certain extent militated against his interest.

*Motion agreed to; Committee named.*

#### THE WAR WITH RUSSIA—BLOCKADE OF THE RUSSIAN PORTS.

THE MARQUESS OF CLANRICARDE presented a petition of Bankers, Merchants, and Shipowners of Kingston-upon-Hull, praying that a rigorous Blockade of all the Russian Ports may be effected without further delay. He stated, that the petition set forth that the depression of trade caused by the war with Russia was greatly aggravated by the uncertainty which existed in consequence of the present irregular and partial blockade of the Russian ports; that serious injury was inflicted upon the shipping interest of this country thereby, and the petitioners expressed strongly their opinion that, in order to a speedy termination of the war, it was necessary that every Russian port and harbour should be effectually closed.

In the sentiments of the petitioners he fully concurred. It was within his knowledge that the complaints of the petitioners were mainly directed to the absence of a blockade in the White Sea, and he would direct attention to some facts which appeared to require explanation. About six weeks ago, it was very generally rumoured in mercantile circles that the Government had come to a determination not to institute any blockade of that part of the Russian dominions; it was also rumoured that the merchants of Holland had received from this country, and from official sources, a distinct intimation to that effect. When this statement was first made to him by a friend engaged in mercantile pursuits, he stated his opinion that there must have been some error, and that the Government could not have come to the resolution to forego so important a right and so powerful and useful a measure as the blockade of the ports of Archangel and Onega; but still more did it appear to him impossible, if such determination had been come to, that any communication should have been made directly or indirectly to any foreign Power, as such a step would necessarily have a most injurious effect upon the mercantile interest of this country. A short time after the same friend met him, and informed him, with something like triumph marked on his countenance, that he had learned that in Holland the merchants were chartering ships to a great extent, and had sent off large orders to Archangel for exporting Russian produce as soon as the White Sea was open; and the trade of Archangel and Onega was expected, during the present season, at least, to be as flourishing as it had ever been. These facts required some explanation, for, if we were not going to blockade the ports of the White Sea, the merchants of this country had a right, at least, to be placed upon the same footing as those of other countries. Had our merchants received the same information as those of Holland, two courses would at once have been open to them. They would either have looked to other countries for obtaining the supply of articles similar to those usually obtained from Russia, or they might have made arrangements for obtaining Russian supplies from neutral ports. The uncertainty which existed on the subject was what was chiefly complained of. A short time since he had made inquiry on the subject, and was informed that three of Her Majesty's ships

had sailed for the White Sea, and that they were to be joined by at least one French ship of war. That force would have been ample for the blockade, as the Russians possessed no fleet or armed force of any consequence in those waters. He was, therefore, greatly surprised, as were also the public generally, when the right hon. Baronet the First Lord of the Admiralty announced in the House of Commons that it was not at present the intention of the Government to blockade those ports. He had, therefore, addressed a question to the noble Duke the Secretary of War on the subject, and the answer he received confirmed the statement of the First Lord of the Admiralty. The case, however, did not rest there. Only two days since, a deputation waited upon the right hon. Baronet the First Lord of the Admiralty upon the subject, and in reply to the statements then made to him, if he were accurately informed, the right hon. Baronet said, that the Order in Council for blockading the waters of the White Sea was signed, but was not yet sent out, nor would he say when or whether it would be sent. Now it surely could not be right that the merchants of this country should be left in such a state of uncertainty on a subject of this importance. He perfectly agreed in the opinion that the Government were not called upon to give any information beforehand as to their intention to institute any blockade, or to announce the course which they intended to pursue; but the question was, whether other countries and other Powers ought to be permitted to know what was the course intended to be adopted when our own merchants were kept in ignorance of the policy of the Government. Subsequently he had received letters from St. Petersburg and Archangel, stating that telegraphic despatches had been forwarded by courier to Archangel, advising the chartering of numerous ships, and the purchase of several thousand tons of hemp, yarn, tallow, flax, and other articles of Russian produce, for shipment from the ports of the White Sea. He had heard from good information that not less than 400 ships were, within the knowledge of the merchants of London, chartered for Archangel and Onega. By the course the Government were pursuing, they were causing a very large amount of the trade connected with English shipping to pass into the hands of neutral traders and shipowners. By allowing the Russian trade to be carried on unmolested we assisted in recruiting her finances, and made

*The Marquess of Clanricarde*

it the interest of neutrals that the war should continue, not that it should terminate. See how the thing worked. Their Lordships were aware that the Russian Government had required a loan to carry on their military operations, and they had obtained it from their customers, whose trade with Russia this country was, in fact, protecting and fostering. In Holland, the Emperor of Russia had raised a loan upon what must be considered very advantageous terms, considering the rate of interest at London and elsewhere. The Dutch had, in fact, a direct interest in supplying the funds for the war, for so long as a state of hostilities continued they would be driving a most profitable business with Russia. Hitherto the proceedings of the allied forces had been attended with success; but, in order to bring the war to a speedy issue, it was necessary that the utmost amount of pressure should be put upon Russia. The war had been carried on successfully by the allies, or rather by the Turks—it was impossible not to admire the distinguished bravery with which they had baffled and driven back the invaders of their country. But their Lordships could not seriously believe that the victories which had been obtained on the banks of the Danube had really brought us much nearer a termination of the war. The victories were of advantage undoubtedly; but they knew from the character of the Emperor and Government of Russia, that it was not by the loss of thousands of unfortunate Russian soldiers that we could ever hope to obtain peace. But even the most tyrannical Governments found it difficult to resist the wishes of the mass of the people; if, therefore, they wished to bring about a speedy peace, it could only be by making the producers and trading interests of Russia feel the pinch of the war by a most effectual blockade of the ports and harbours of Russia. Letters had been received in London only the day before yesterday, stating that there was no blockade in the Sea of Azof. He was not so unreasonable as to suppose that this country could supply a navy equal to blockade every quarter of the world; but when they had sent a force quite sufficient for the purpose to the White Sea, he could not understand why the blockade should not be instituted. It had been hinted that the Government had to conciliate our ally in this matter, in a manner which seemed to imply that the French Government were indisposed to blockade the White Sea.

That might probably be the reason which had influenced the Government in the course it had taken; but if so, these reasons ought to be stated.

THE DUKE OF NEWCASTLE said, that the prayer of the petition was, that a rigorous blockade of every port and harbour in the Russian dominions might be effected without further delay. The noble Marquess had not dwelt much on the particular object for which these opinions had been offered to the House by the petitioners; he had dwelt principally upon the importance of the blockade in the conduct of the war, and not as affecting the interests of the petitioners, which he apprehended was the real object for which they were concerned. The noble Marquess was quite in error, if he believed that there was a perfect agreement of opinion among the merchants of this country with respect to the propriety of blockades of the Russian ports. The difficulties connected with the functions of the Executive as to the determination of questions of blockade were greatly increased when, as in the present case, the blockade was to be instituted in conjunction with an ally, and that ally one whose interests were as much, or even more deeply, concerned as our own. He had no objection to confirm the surmise of the noble Marquess at the close of his observation, that it was in consequence of arrangements into which France had entered which prevented the Government of that country from agreeing, in the early part of our negotiations with respect to the commencement of this war, in instituting a blockade of the ports in the White Sea, and Her Majesty's Government thought, if the French Government were bound by engagements of that kind, and did not feel themselves at liberty to join in the blockade of the White Sea, it would not be right for this country to institute such a blockade. The last correspondence with the French Government showed a considerable alteration of opinion upon this subject, which he thought would, in all probability, lead to the adoption of a similar policy on the part of both countries. He stated that the noble Marquess was mistaken, if he supposed that the mercantile interests at large were unanimous as to the importance to their interests of the institution of this blockade. The deputation to which the noble Marquess had referred, as having waited upon the right hon. Baronet the First Lord of the Admiralty, so far from waiting upon him for purposes similar to

that suggested in the petition presented by the noble Marquess, namely, the establishment of a strict blockade of the ports of the White Sea, had for their object to remonstrate against such blockade, and to request Her Majesty's Government not to take such a step. The reasons which they assigned—he would not now say whether they were valid or not—was that 400 ships had been chartered for the trade to Archangel, and that at least three-fourths of them would be freighted with grain. Another important fact which they stated was, that the greater part, if not the whole, of the trade with Archangel was carried on not with Russian but with foreign capital, and that advances were usually made for the purchase of goods brought to Archangel, and that, in fact, at the present moment, the freight of those 400 ships belonged not to Russian subjects, but to subjects of other nations, and that the effect of the institution of this blockade would be not to injure Russia, or the trade of the Russians, but the subjects of neutral and probably friendly Powers. He merely made these statements to show that, even with respect to the prayer of the petition, there were two sides to the question. The noble Marquess had evidently made a great mistake with respect to the answer which the right hon. Baronet the First Lord of the Admiralty returned to the deputation. He stated that the answer given was to the effect that the Order in Council had been signed for the institution of this blockade, though it had not been published, and he could not tell when it would be. He was at a loss to conceive how anything his right hon. Friend had said could have been tortured into such a statement, for no Order in Council was necessary to the institution of the blockade, and therefore none could have been or would be signed. [The MARQUESS of CLANRICARDE explained, that he intended to have spoken of a simple order, not of an Order in Council.] Even then, the First Lord of the Admiralty must have been misunderstood, as no order had been signed. The First Lord of the Admiralty might have said, that he was unwilling to say when the order would be issued. In so doing, he would have been acting strictly in accordance with all rules of propriety in such cases, not to give to those gentlemen any information prior to that to be given to the rest of the world. With respect to the policy of instituting the blockade, the noble Marquess would see, from what had been already stated,

that Her Majesty's Government did not differ greatly from the opinions which he had himself expressed. He (the Duke of Newcastle) thought, that even the noble Marquess would place some confidence then with respect to the circumstances which influenced Her Majesty's Government, with regard to the particular moment when they would direct the establishment of the blockade. He could assure the noble Marquess, that if they had hesitated to institute a blockade of the White Sea, or of any other port, it was not from any fear of doing too much injury to Russia. The noble Marquess might rest assured that the moment the Government were satisfied that they could strike a blow at Russia, either by instituting the blockade of the White Sea or of any other ports or harbours, or by taking any other measures, without inflicting grievous injury upon other parties who ought not to be injured, the blow would be struck. Both as regarded blockades and more active measures, the Government had not the slightest intention of departing from that course which they had adopted up to the present moment, of taking every opportunity which their means afforded of inflicting the heaviest blow upon Russia, and subjecting her to the severest pressure they could impose, in order to entitle this country to demand such terms of peace as we could alone accept.

LORD BEAUMONT complained that the effect of the policy now pursued with respect to the ports in the White Sea was to throw nearly the whole of the trade with Archangel into the hands of the foreign shipowner and merchant, for hitherto the Russian trade had been chiefly carried on in British bottoms, whereas it was now carried on in neutral ships. The British would have been content to make the sacrifice if it had tended in any way to hasten the conclusion of the war. But no effect of that sort could be produced by the present system, because the injury was not inflicted upon Russia, but fell upon the shipowners of this country. A benefit was conferred upon neutral Powers, but that was conferred, not at the expense of Russia, but as the result merely of the loss that was inflicted on our own people. What we were now doing was perfectly null so far as the war was concerned, and it was at the same time not only injurious to our own people now, but it would continue to be so when the war had ceased, if trade should

*The Duke of Newcastle*

be driven into new lines of communication: With regard to the White Sea, he knew not what was the precise objection of France to effecting a blockade there; but if the case merely was that France was unable to join England in blockading the ports of the White Sea, that was no reason why this country should be precluded from effecting the blockade. At any rate, as early information as possible ought to have been given to the merchants and others interested in the question as to the intentions of the Government. However, from what fell from the noble Duke it was to be concluded that there was a total change of policy with respect to the White Sea, though the information came rather late in the day, as the shipping trade with Archangel would soon terminate for the season, and, so far as Russia was concerned, a great advantage would have been obtained. The objection that the property of Englishmen in the port would be injured by a blockade could not be allowed to have any weight, for the same objection would apply to the blockade of any other Russian port.

THE EARL OF ELLESMERE had heard with great pleasure the approbation expressed by the noble Marquess of the warlike operations in general now being carried on; and in that sentiment he entirely concurred. However, he understood the noble Marquess to make some exception in his praise so far as the Sea of Azoff was concerned; but if the noble Marquess examined the charts of that sea, and compared the general depth of water with the draught of our vessels, he would perceive that it was not so easy to conduct effective operations there with safety. He repeated that he concurred in the approbation bestowed on our Admirals, whose activity and skill no one could doubt, and whose conduct had evidently been guided by a wise desire to husband the resources of the country, and to make as effective as possible any blow they might inflict.

The petition ordered to lie on the table.

#### THE TREATY OF ADRIANOPLE.

THE EARL OF ABERDEEN: I beg to give notice that on Monday next I shall move for the production of the despatch addressed by me formerly to the Russian Government on the subject of the treaty of Adrianople; and I shall take that opportunity of removing some great misapprehensions now existing from the few observations I made the other night.

## JUDICIAL OFFICES (IRELAND).

THE MARQUESS OF CLANRICARDE said, that considerable alarm had been excited in Ireland by the rumour that it was in contemplation to provide, by annual votes of Parliament, the salaries of certain officers of law courts in Ireland who exercise judicial functions, and their successors, which salaries are now charged by Acts of Parliament upon the Consolidated Fund, and he wished, therefore, to ask the Lord Chancellor if there was any such intention on the part of the Government? He submitted that nothing could be more injurious to the due administration of justice than to make the salaries of gentlemen engaged in the administration of justice subject to an annual Vote of the House of Commons, besides that it would afford an opportunity to any partisan in that House, when party spirit ran high, to get up in his place and question the salary of any particular person.

THE LORD CHANCELLOR said, he was happy to be able to relieve his noble Friend from all apprehension on this subject. It was not the intention of the Government to transfer from the Consolidated Fund to the annual Votes of Parliament the salaries of any officers of the law courts in Ireland who exercised judicial functions. He had himself received, about a fortnight ago, a communication from the Lord Chancellor of Ireland, stating that apprehension existed among the persons interested there, that the meaning of the words "officers of the courts," used in a provision in the Public Revenue and Consolidated Fund Charges Bill, extended to the Masters of the Courts. He (the Lord Chancellor) quite admitted that the expression was rather vague, and steps would be taken to alter the wording in that particular, so as to divest it of all ambiguity.

House adjourned to Monday next.

## HOUSE OF COMMONS,

Friday, June 23, 1854.

MINUTES.] PUBLIC BILLS.—2<sup>o</sup> Convict Prisons (Ireland); Bills of Exchange and Promissory Notes; Poor Law Board Continuance; Union Charges Continuance.

Reported—Vice-Admiralty Court (Mauritius); Portland, &c., Chapels; New Forest.

## COMMERCIAL RELATIONS WITH JAPAN.

MR. GREGSON said, the House generally might not yet be aware that the American commodore had succeeded in obtaining an opening for commercial inter-

course with the empire of Japan, which was a country rich in resources and in mineral wealth, and containing 30,000,000 inhabitants. As the Emperor had replied to a suggestion, disinterestedly made by the American commodore, that the same privilege which had been granted to America should be extended to other countries, by stating that each Power must apply for itself, he wished to ask the Lord President of the Council whether any instructions had been, or, if not, would be transmitted to Sir John Bowring, the Governor of Hong Kong, or whether any steps would be taken to obtain an opening for British commerce with Japan on terms similar to those understood to be arranged with the United States of America?

LORD JOHN RUSSELL said, Sir John Bowring had already been instructed, if he should find that a treaty with America had been signed with Japan, immediately to ask for similar terms for this country. He had likewise been instructed to proceed to Japan for that purpose; and although special circumstances had hitherto prevented his doing so, as soon as the admiral should be able to place a ship at his disposal, it was his intention to go to Japan for the purpose of obtaining a treaty similar to that which had been entered into with the United States of America.

## LOSS OF THE "EUROPA"—QUESTION.

CAPTAIN SCOBELL: I wish, Sir, to ask the right hon. Baronet the First Lord of the Admiralty whether the *Europa* sailed from England on her voyage alone, or in company with any other ship or transport; and if no such regulation is established, has the Board of Admiralty considered the propriety of arranging, when practicable, and as a precaution, that hereafter no transport with troops on board shall commence her voyage to a foreign station without a consort?

SIR JAMES GRAHAM: Mr. Speaker, the loss of the *Europa* has certainly deeply afflicted me, and has given rise to most serious considerations, some of them of a professional character; and in consequence of the loss of that vessel, strict injunctions have been issued by the Board of Admiralty that all smoking, on the part of either soldiers or sailors, in the lower deck, which was before prohibited, shall, under the strictest regulations, be henceforth entirely put down; because the House will be aware that on the day preceding the fatal loss of the *Europa*, a fire

did take place upon the lower deck, which was clearly traced to smoking. That fire, however, appears to have been soon extinguished. I may further state that fresh instructions have been issued with respect to the stowage of cargo on board transports; and that additional precautions have been taken, in reference to such articles as oil and coals, which might be liable to spontaneous combustion, in order to guard against that danger. These are some of the professional considerations which have occurred to me. There are also moral considerations, to which I will not now advert, but which cannot fail to present themselves to the minds of hon. Members of this House, in connection with the heroic conduct of the lamented Colonel Moore, and with the conduct of both soldiers and sailors in the extremity of danger. But I must say, that until I read the notice of my hon. and gallant Friend, the consideration which he has suggested did not occur to my mind. I do not think that, whatever accidents may have occurred, the time has arrived when it should be held out to our soldiers and to our sailors, that the danger of crossing the sea in a single ship is such as to make it necessary that precautions should be taken that ships shall sail in company. Those who are least inured to hardships, and least accustomed to danger—our emigrants—proceed across the sea in single ships. The mails and the passengers by our mail packets are conveyed across the sea in single ships. Even gentlemen in pleasure yachts proceed across the sea in single ships. It was only last year that a noble Friend of mine made a voyage to Australia in a vessel of only 300 tons; and that men inured to hardships like our soldiers and our sailors should no longer proceed across the sea in single ships is, I confess, a consideration which did not occur to my mind.

#### THE OXFORD UNIVERSITY BILL.

The Order of the Day for the further proceeding on consideration of this Bill having been read,

THE CHANCELLOR OF THE EXCHEQUER presented a petition from the master and fellows of Pembroke College, against the clause which had been adopted by the House a few nights ago, on the Motion of the hon. and learned Gentleman the Member for Plymouth (Mr. Roundell Palmer). The effect of the petition—for, of course, he should only state its object

*Sir J. Graham*

in very general terms—was earnestly to pray the House not to place the petitioners under the control of a small municipal corporation, which would be the effect of such a clause as this, but to release them from all such foreign intervention in the election of fellows and scholars as that to which they were now subject, and which interfered with the proper discharge of their high and responsible duties. He had now to move the insertion of the names of the Earl of Harrowby and Mr. Cornwall Lewis as additional Commissioners; and also that the Dean of Wells should be mentioned in the first clause by name, as well as described by his office, doubts having arisen whether, if this were omitted, his successor in the deanery would not be entitled also to succeed in his place in the Commission.

MR. MANGLES said, he rose to move the omission of the names of Sir John Taylor Coleridge and Sir John Wither Awdrey from the list of Commissioners. Having been for thirteen years a supporter of the noble Lord the President of the Council, it was with much pain that he felt that, in making that proposition, he was taking a course in opposition to the Government, and to the noble Lord whom he had followed, through evil report and good report, for so many years; and his reluctance was increased by the consideration that he had not himself had the advantage of being educated at either of our Universities. That reluctance had been only overcome by the conviction that these great institutions were the heritage of our children, and of our posterity, and that the general interests of education were very much identified with them, and very much dependent on the reform now undertaken being effectual. He was further embarrassed by the recollection that he had himself voted for the Commissioners now named in the Bill, in opposition to a Motion made by his hon. Friend the Member for Stroud (Mr. Horsman). If, however, he had known then what he knew now, he should not have given that vote. At that time he knew nothing, or very little, of Sir John Coleridge, except what he had gathered as to his character and opinions from his letters in the life of that great and good man, Dr. Arnold. He knew, indeed, that he was a High Churchman, but he had no desire whatever that that section of the Church should not be adequately represented in the constitution of the Commission. He thought it important that it should be

so represented, but he had satisfied himself, and he believed he should be able to satisfy the House, that Sir John Coleridge was much more than a High Churchman; and that by his antecedents—by what he had said, and what he had done, in past times—he had become disqualified from occupying a seat in this Commission with advantage to the country. No doubt Sir John Coleridge was a very accomplished gentleman—a man of high honour and unassailed character; but he had said and done things which ought to take from him the confidence of the people of this country for the particular post for which the Government had selected him. He would proceed at once to state the grounds on which he considered Sir John Coleridge disqualified for the office, merely premising that no man could be fitted for it who did not possess the confidence of the University, and also the confidence of the country. He did not wish to say one word against Sir John Coleridge personally; but he felt bound to state that he was notoriously a partisan of the strongest description—a man firmly attached to one particular party, not only in the Church, but in the State, a party fully disposed to act together in all matters connected with the reform of our institutions. It was possible that a partisan might be an unexceptionable member of the Commission, provided he belonged to any large party in the Church; but Sir John Coleridge belonged to a segment of a party in the Church, which, within the walls of Oxford, was small and insignificant as compared with the members in the University, and which had no real power or respect in the country, and which could not have the confidence of the country. The first document to which he would call the attention of the House was the address presented by a body of gentlemen to the Vice Chancellor of Oxford in 1843, protesting against the suspension of Dr. Pusey from preaching for two years on account of the doctrines which he set forth. That protest was drawn up in so objectionable a manner that it produced a reply from the Vice Chancellor of the University, dated from St. John's College, the first sentence of which ran thus—

"Sir,—The address which you have been commissioned to present to me, reached me by yesterday's post. I return it to you by the hands of my beadle."

And then he went on to state that—

"Whether the document was addressed to him in his individual or official capacity, it was de-

serving of the strongest censure, and he warned those who signed it"—amongst them was Mr. Justice Coleridge—"to be more careful in respect of the oaths which they had taken on admission to their several degrees, for that such acts had a tendency to disturb the peace and interfere with the orderly government of the University."

Now, he would ask the House whether a person upon whom so strong a censure had been pronounced by the authorities of the University, should have been selected from the whole body of English gentlemen, English lawyers, and English scholars, to legislate for the University. About the same time, however, or a little anterior to it, the celebrated Tract No. 90 was published—the avowed work of Dr. Newman—that drew upon him the distinct censure of the governing body of the University. It was not too strong to call that tract a publication of gross sophistry; it was a most able and elaborate disquisition on the art of evasion in all its branches. The authorities spoke of it—"As an attempt to evade rather than explain the sense of the Thirty-nine Articles; as reconciling the subscription to them with the adoption of errors which they were designed to counteract; and as inconsistent with the precepts of the University." Now, he was credibly informed that the name of Sir John Coleridge was attached to the address subsequently made by certain members of the University calling upon the proctors to exercise their powers and place a veto upon the vote of censure brought forward against Dr. Newman, as the author of Tract No. 90. Well, the proctors did use their power, and they declared that such a resolution should not be passed. He believed also that Sir John Coleridge's signature was attached to the protest against the formation of the bishopric of Jerusalem. He would frankly admit that it might be said that Sir John Coleridge had expressed no opinion on the merits of the several questions; it might be argued that he had only objected to the mode in which they were to be brought to trial, and to the manner in which it was endeavoured to settle disputed points of doctrine by the interference of an absolute authority. Such sentiments—apart from all coincidence of opinion with Dr. Pusey or Dr. Newman—might be natural to a man brought up in Westminster Hall. But he was in a position to prove that Sir John Coleridge had given his concurrence to all the opinions of Dr. Newman. So short a time since as a year and a half ago, when public decency was outraged by the trial for a libel, written by Dr. Newman,

Mr. Justice Coleridge delivered the sentence of the Court upon the defendant, and he used words which he should quote to the House, and hon. Gentlemen would see that, while Mr. Justice Coleridge's object at the moment was to clear Dr. Newman from a charge of acrimony and severity, they would also see that in the most unequivocal manner he spoke of his writings with unmingled praise and commendation, giving, in fact, his adhesion to their every word. The charge was delivered on the 31st of January, 1853, and the words to which he alluded were these—

"If the defendant had published a wilful slander against the Church of England, he was no longer within her fold; but he might appeal to the defendant's invaluable writings whilst at Oxford, in which, great as was their ability, sound as was their doctrine, urgent as was their teaching towards holiness of life, nothing was more remarkable than their tenderness and gentleness of spirit. Nay, he might go further, and say with regard to those controversial writings which he published while still a member of the University, that, though his arguments might have sometimes been severe, because just and unanswerable, they contained nothing like personal bitterness."

Now, he would beg to ask the House whether a gentleman who had delivered himself from the bench in such terms, could possess either the confidence of the University primarily, or of the country at large, and whether in selecting him for this task the Government was not going out of its way? But before he sat down he could not help returning to his opening confession, that it was with extreme reluctance that he moved in this matter, as he was thereby placed in antagonism to the Government. Still, though an humble Member of that House, he felt that the support which he had given to the Liberal party through a long course of years justified him in stating his opinions to the noble Lord (Lord John Russell) with all the frankness consistent with the respect and honour in which he (Mr. Mangles) held him. The noble Lord had connected himself with a body of Gentlemen not less distinguished for their great talents than for the smallness of the number which, upon the formation of the Coalition Government, they brought to the aid of the Liberal party in that House. Now, he was not by any means disposed to quarrel with that Coalition; on the contrary, he had long before denied that it might take place, and that with the least possible delay, for he believed that those Gentlemen who had joined what was termed the Liberal party had been purified from all their former bad principles in the great lavatory of free trade. And

*Mr. Mangles*

he was satisfied that, with the single exception of what he should term religio-political opinions, there was no real difference between the right hon. Gentlemen and the great Liberal party, and therefore he thought it was an honest and honourable Coalition. However, now these Gentlemen were seated in front of a large party consisting almost entirely of Whigs and Liberals of different sections and degrees. And if there was one fact in the history of the country more certainly recorded than another, it was this—that during long centuries the Whig party has been always distinguished for being, to say the least, most assuredly not High Church. Well, then, he would say to those right hon. Gentlemen who were willing to act as their leaders, and whom that side of the House was willing to follow, he would say to them, "Show some respect for the known opinions of the hundreds who sit behind you." He did not ask them to do violence to their own principles, but simply to respect theirs—simply not to attempt to extort from their liberal supporters the approval of such appointments as that of Sir John Coleridge. And were he to continue on such a theme he might allude with equal sorrow to nominations recently made to the episcopal bench. He would entreat them, for the sake of fair consideration to those whom they desired to lead, to have some respect for the political opinions of their followers. There were many on that side of the House that held Puritan blood in their veins; and they were, therefore, but little disposed to give their countenance to any extreme or ultra High Church views. His Motion, however, might be defeated—defeated, perhaps, as was the Motion of last night—and as was the Motion with respect to church rates a few nights ago. It might be defeated by the noble Lord, going into the lobby with all his ordinary opponents, and against almost all his own followers. But, he must say, such triumphs as that would be ruin to the party—ruin to the great Liberal cause throughout the country, which was the cause of the country, for the majority in that House was not at this moment a mere accidental majority, produced by the result of a general election—but it represented the feelings of the great bulk of the people of England. A few more such defeats, then, as that of last night, and it would end in the ruin of the Liberal cause, which would be brought about, not by the prowess of hon. Gentlemen opposite, but simply through a want of consideration on the part of the Govern-

ment for the known opinions of those who sat behind them.

MR. HORSMAN seconded the Motion.

Amendment proposed, in page 2, line 5, by leaving out the words—"The Honourable Sir John Taylor Coleridge, one of the Justices of the Court of Queen's Bench."

Question proposed, "That the words proposed to be left out stand part of the Clause."

THE CHANCELLOR OF THE EXCHEQUER said, it was not necessary for him to follow the hon. Gentleman at any length in the statement which he had made, further than freely to make the admission—that, considering the nature of the task which he had to perform, and which he himself described as one disagreeable to his own feelings, he felt he had accomplished his task in a manner as fair and as inoffensive as the nature of his subject permitted. Now, with respect to Sir John Coleridge, the hon. Gentleman had spoken of the insertion of his name—and so far he had not spoken quite accurately—he had spoken of the insertion of the name as if it had borne an analogy to an appointment by the Government. But it really could not be considered to bear any such analogy; for it was not an appointment by the Government, but simply a proposal subject to the approval of that House. And he believed that those who had witnessed the fate of various proposals of the Government, and the different votes on the University of Oxford Bill, would be aware that the distinction to which he now referred was not a narrow, an unreal, or an imperceptible distinction. The wish of the Government was to act in the spirit which the hon. Gentleman had described—that was, to place upon the Oxford Commission the names of gentlemen who would carry with them the confidence both of the University at large and of the country. He said of the University at large, because he entirely agreed with the hon. Gentleman, that it would have been most unwise—considering the Parliamentary ordeal to which the names would have to be submitted—it would have been a perfectly suicidal act upon the part of the Government, if it had knowingly and willingly proposed any gentleman associated with extreme opinions—at variance with the laws and spirit of the Church of England—to act upon such a Commission as this. Now, the hon. Gentleman had referred to three circumstances in connection with the case of Sir John Coleridge. Two of these were cases in which the hon.

Gentleman stated Sir John Coleridge objected to censures which it was proposed to inflict upon certain persons on account of their theological opinions. Well, he was bound to say that he considered that the hon. Gentleman had himself furnished an answer to that portion of his speech, because he very fairly suggested that it did not follow that those who objected to a particular theological censure concurred in the opinions expressed by the man whom it was proposed to censure. He (the Chancellor of the Exchequer) had found seven individuals to claim the benefit of that admission; and he had reason to claim it in more directions than one; because, while he had upon more occasions than one objected to theological censures of the description referred to, it had been likewise his fate and duty, and that upon a very recent occasion, to take objections of precisely the same description to a theological censure proposed to be pronounced in London upon a gentleman of very great eminence and very great ability, for opinions which, if they went astray at all, did so in a direction entirely the opposite to that of which the hon. Gentleman spoke—he referred to the case of the Rev. Mr. Maurice. He would say, then, that if that principle was good in one case, it ought to be extended to other cases, unless they had a full and distinct proof against Sir John Coleridge, or any other person, with respect to the opinions which they might have uttered. Now he thought the hon. Gentleman refrained cautiously from representing that the name of Sir John Coleridge did not carry confidence to the University of Oxford. He (the Chancellor of the Exchequer) was bound to say, that he did but justice to the University in saying that it was not pervaded by extreme opinions of any nature—the hon. Gentleman stated that manfully and candidly. He believed it was notorious to all connected with the University that a very great freedom and diversity of opinion prevailed within it; but if that diversity had a tendency to lapse into extremes in one quarter, it was also true, as stated by a right hon. Gentleman on the opposite bench, that it had likewise a tendency to pass into another extreme. But at any rate, if the existence of such views was to be deplored, he believed the fact to be, that the opinions of the great bulk of the University lay between them, and that they were not coloured by either one extreme or the other. For his part, he should be very sorry to draw a distinction between

any two of the seven names included in the Commission. His knowledge of the members of the University of Oxford was not limited, particularly of those who, being collected on the spot, represented the University, both on account of their own eminence, and from their habits of communication with others. And he was bound to say he had received the most emphatic testimony—not in reference to one name on the Commission or another—but generally, that the names on the Commission did carry the confidence of the University, as the view taken of the Commission had not so much reference to precise individuals as to the concurrence of each name on it with every other name, and to their general moderation, their eminent qualities, their competence for their duties, and their power and intention to give themselves honestly and effectively to perform the task before them. Now, he was bound to make a confession which he had never made before in that House, though he knew that when one got upon questions of religion strong protests were generally more likely to confirm than allay suspicion, still he frankly owned that he had rarely known an instance where important functions were conferred in matters of education, where theological teaching was so little likely to interfere as with the duties of the Commissioners. Indeed, he hardly knew anything which they would have to do with regard to which the course taken by one Commissioner or another could possibly be portended or traced out, inasmuch as that Commissioner was not connected with either one or other of the popular appellations, High or Low Church. He thought it was most important that these Commissioners should be men who entered into the views of Parliament, and he really was at a loss to know what questions would be raised in the University, where the effects of religious opinion, in all their variety, would be traced. There was, however, one reference made by the hon. Gentleman to which he must allude. The hon. Gentleman had referred to certain words which he said were used by Sir John Coleridge. Now, the hon. Gentleman did not state from what source he derived those words, and he must say—he could not help saying—that, considering the nature of this Motion, it would have been right—he was bound to say fairness demanded such a course—he must add it was absolutely necessary, for the satisfaction of Parliament—that the hon. Gentleman should have taken the pains which were

*The Chancellor of the Exchequer*

easily within his reach, to verify those words which he quoted. He certainly confessed they were words heard by him (the Chancellor of the Exchequer) for the first time; and he had no knowledge whether they were delivered by Mr. Justice Coleridge or not. He must say he felt bound to conclude that they were not so delivered. The hon. Gentleman had himself stated there were various writings of Dr. Newman which were very laudable writings. Perhaps the hon. Gentleman did not know what position Dr. Newman occupied twenty years ago. At that time he was well known as being attached to those who were called the High Church party at Oxford: and he could remember very well, that when he was an undergraduate at Oxford, Dr. Newman filled the highly unpopular office of secretary to the Church Missionary Society of Oxford—a society which he doubted very much if at that time there were three dignitaries at Oxford who would have touched it or its concerns with a pair of tongs. And this he would add, that in all the phases of his life—in all the varied passages of his career—Dr. Newman delivered himself of various and multiform writings—the only uniformity which they displayed was in the great ability and high moral character invariably distinguishing them. Now the hon. Gentleman stated that Mr. Justice Coleridge spoke of the theological writings of Dr. Newman. It was very well known, however—and he did not now speak of anonymous writings—that his writings mostly related to the controversy between the Church of England and the Church of Rome, in which he was chiefly remarkable for the great force and vehemence of the hostile epithets which he applied to the Church of Rome. He thought that the hon. Gentleman was making a leap in the dark if he founded his Motion solely upon the information which he had submitted to the House. He (the Chancellor of the Exchequer) granted that with the views which the hon. Gentleman entertained he might conceive that his proposition was in accordance with the fulfilment of his duty. But the hon. Gentleman should recollect that the fulfilment of his duty involved neither more nor less than the censure of Parliament upon the character of Mr. Justice Coleridge. [*Cries of “No, no!”*] Yes; the vote proposed by the hon. Gentleman was the formal rejection of Sir John Coleridge from a Commission for which he admits—whether this distinguished Judge be a High Churchman or a Low Churchman—whether he be even

a strong High Churchman or a strong Low Churchman—he is otherwise perfectly qualified. The proposition amounted to nothing else than the rejection of a gentleman—an eminent Judge of the land, who in such capacity might be even called upon to deliver judgment upon matters touching ecclesiastical concerns. It might be softened down as they pleased, but the effect of the proposition of the hon. Gentleman was nothing more nor less than a political censure. Now, it was the absolute duty of that House to know well the grounds upon which they were about to proceed. It was the duty of the hon. Member to verify the truth of the words attributed to that gentleman. It was the duty of that House to ascertain whether the language quoted was really uttered by Mr. Justice Coleridge or not. He (the Chancellor of the Exchequer) submitted that, as regarded the sense put upon the words referred to by the hon. Member, the House had no evidence at all to justify this interpretation. It was, however, the duty of the hon. Member, before he took a step which involved a vote of censure upon the character of Mr. Justice Coleridge, to have inquired narrowly into the facts, and into the nature of the offence charged against this distinguished and eminent gentleman.

MR. WALPOLE said, he fully concurred in the concluding observation of the right hon. Gentleman, but he certainly did not concur in the observation of the right hon. Gentleman that the appointment of those Commissioners was the appointment of the House of Commons. He thought that that House was ill-suited to take upon itself the responsibility of those appointments, though it might be but reasonable to give it the responsibility of exercising a veto in respect to those appointments. The House should consider whether, looking at those proposed Commissioners as a body, they could safely intrust to those Commissioners, composed of a body of gentlemen selected by the Crown, the discharge of certain functions intended to be committed to them by this Bill. He, therefore, wished the House to consider, that if hon. Members raised objections to any one of the names proposed, upon grounds which they might feel, personally and individually, to be strong, they would necessarily provoke a discussion upon every other name proposed, to whom some individual Member might have an objection. This was a discussion upon which he (Mr. Walpole), for one, would be most unwilling to enter. He could only say, for himself, that the names

proposed by the Government would not be exactly the Commissioners which he would select; but, looking at them as a body, he thought that no great objection could be urged against them. He would venture to say that, whatever gentlemen were proposed, there would be found hon. Members in that House to say that they would prefer some one or other gentleman instead of the particular individual selected. But he thought that personal discussions of this nature were most disagreeable. It was, however, difficult to lay down a definite course by which they ought to be guided in such matters. He was of opinion, that, unless some grave and positive objections were stated to call upon the House to exercise its right of veto, they ought to acquiesce in the names proposed by the Government. Now, in respect to Sir John Coleridge, he (Mr. Walpole) thought he should be acting extremely wrong if he did not bear his humble testimony to the character of that eminent Judge. Without reference to any opinions upon theological subjects entertained by that learned individual, he begged to say that he knew the merits of Sir John Coleridge as a Judge; and he believed him to be a man of high honour and principles, and one not likely to be swayed by personal, party, or religious feelings in the exercise of the important functions intrusted to him. Looking at the character, capacity, and high honour of Sir John Coleridge, and considering the merits of the other gentlemen proposed as Commissioners—though he would not have selected those gentlemen to discharge the duties of Commissioners—he yet thought, upon the whole, that the House could not do better under the circumstances than to acquiesce in the proposition made by the Government.

MR. HORSMAN said, he agreed in the opinion that no question could be of a more delicate or painful character than discussing the personal qualifications of a man placed in the high position of Mr. Justice Coleridge. When the House was in Committee upon this Bill, it would be recollected that he then stated his objection to the appointment of Mr. Justice Coleridge; but that objection was confined to this point—that Mr. Justice Coleridge was so overlaid with judicial and professional avocations, it would not be proper that he should take upon himself the onerous duty of Commissioner. The right hon. Gentleman the Chancellor of the Exchequer had placed them in a false position when he told them that if they expressed an opi-

nion adverse to the qualifications of any of those gentlemen to act as Commissioners, they would be taking upon themselves the responsibility of passing a judicial verdict upon them. Now, the House was not responsible for those discussions. The Government alone was responsible, who had brought those names before it. Whether Mr. Justice Coleridge was a High or a Low Churchman, was nothing to him (Mr. Horsman). It should, however, be recollected that during the last fifteen years there had been a religious movement going on in the University of Oxford which had attracted much attention. There were two members of that University who had made themselves particularly prominent at the outset of that movement. Those members were Dr. Newman, who had since become a Roman Catholic, and Dr. Pusey, who was still Regius Professor of Theology in the University. Both of these gentlemen had received the censure of the University for their writings, and in both of those cases Mr. Justice Coleridge had unnecessarily come forward to censure the University for having censured those writings. When they had men of high character and eminence in the country, the Government should not have selected for the office of Commissioner a man who was in the position of having been censured by the University. He felt much regret at being obliged to object to the appointment of such an eminent man as Mr. Justice Coleridge, but he could not but feel that that distinguished Judge had, by his own act, created his disqualification for the office of Commissioner.

LORD JOHN RUSSELL: I think, Sir, the right hon. Gentleman opposite (Mr. Walpole) has taken a right view of this question, and that the responsibility of appointing this Commission rests mainly with the Government. But if the House should find that the persons whom we propose to form this Commission should be persons destitute of learning, devoid of probity, and unworthy of the confidence of the House, it would be the part of the House to interfere with the appointment of that Commission. But I beg to submit, without discussing the merits of the men who are named in the Bill as Commissioners, that a desire is displayed on the part of the Government to have a Commission composed of men who are fit to be intrusted with such high duties. With respect to Lord Harrowby, no objection is taken; but if all the High Churchmen in the House had arisen and had ob-

*Mr. Horsman*

jected to him, and if, in consequence, Lord Harrowby had been excluded, that would not have been a very just mode of proceeding. Mr. Cornwall Lewis is another Commissioner whom he thought no one would accuse of High Church opinions. It has been our duty to endeavour to have upon this Commission men who are qualified for their task; and with regard to Mr. Justice Coleridge, no one has disputed his probity or his high character, and no one will say that any learned Judge possessing his learning and taste for literature is not peculiarly fit for an office of this kind. I am told, however, that Mr. Justice Coleridge ought to be excluded on account of some censure which has been pronounced upon him by the University of Oxford. Now, for myself, I confess that I am not disposed to look with very great respect to those censures which have been pronounced by the University of Oxford. Both with regard to one side and the other—with regard to those who have held too liberal opinions, and with regard to others like Dr. Pusey, concerning whom I might be supposed to express the same opinion, that their doctrines are not sound—I think the University of Oxford has generally been rather hasty in her condemnation, and I cannot be supposed to pay much respect to her censure, for I advised Her Majesty to place upon the bench of bishops one who had incurred the censure of that body. The question for the House, however, is not whether they agree in the opinions of Mr. Justice Coleridge. I may sympathise very little with those opinions, and they may be very distasteful to me; but that is not the question. It is, whether these seven gentlemen are a body qualified to perform the duties intrusted to them. The first responsibility is with the Government; but if they are men wanting in learning and integrity, the House will do quite right to refuse its sanction to their appointment.

MR. DRUMMOND: It is somewhat worthy of remark, Sir, that the opposition to the appointment of this distinguished Judge comes from a body of Gentlemen who generally assume the sole right and title to the toleration of all religious opinions. But still, what is more extraordinary, my hon. Friend who brought forward this Motion calls upon the noble Lord (Lord John Russell) by all his hereditary reminiscences—to do what? Why, to do an act of bigotry and intolerance, as if to the Whigs there was not more peculiarly due than to other political parties, the assump-

tion of those Liberal opinions which the noble Lord the leader of that party is now called upon to violate. But then, says the hon. Gentleman, you owe us something—you would not let us rob the Church of her rates—you grudge us exceedingly the tithes—we have not had a bit of plunder. Now do grant us this.

Amendment, by leave, *withdrawn*.

Mr. J. G. PHILLIMORE, in moving, pursuant to notice, the omission of the 33rd clause, said that the Constitution of this country rested, as the noble Lord the Member for the City of London would not deny, in a great measure on prescription, and yet in the present measure they were going to depart altogether from it, as far as it applied to the University of Oxford. The University was to have the power of changing the destination of property after fifty years; would anybody acquainted with the characteristics of the people of this country suppose that, if this principle were suffered to prevail, anybody would leave property to Oxford, with a knowledge that, if the University chose, it might be changed from its destination? Nobody was more disposed to admit than himself that what was originally beneficial might eventually become pernicious, still, he must say, that the power of changing the destination of property ought to rest in that House, and not in the University. With respect to the right of prescription, it was the principle which guided the old Roman law, and, when he read this clause he felt it was a proof how much ignorance existed in that House on the old Roman law, for no man who was acquainted with that admirable system of civil jurisprudence would venture to propose such a clause as this. He objected strongly to a principle such as that embodied in the clause being admitted and incorporated into the jurisprudence of this country, tending, as it would, to restrict the bounty of individuals intended for particular purposes.

Mr. BOWYER seconded the Motion.

Question proposed, "That Clause 33 stand part of the Bill."

Lord JOHN RUSSELL said, that so far from the principle in the clause being a new one, only last Session a similar clause giving power to the Commissioners to vary certain trusts, was introduced into the Charitable Trusts Bill. In fact, the main object of the present measure could hardly be carried into effect unless it created some power of this kind. Where, from circumstances, the trusts had become

narrowed in their operation, and did not tend to the advancement of learning, it was certainly desirable that the interests of learning should be regarded as superior to the mere letter of the will of the donor.

Amendment, by leave, *withdrawn*.

Mr. ROUNDELL PALMER moved to add at the end of Clause N the following words—

"And when any right of preference shall belong to any school contingently only upon the failure of fit objects from some other school or schools entitled to and in the enjoyment of a prior right of preference, then and in such case the power of dissent hereby given shall only belong to the governing body or governing bodies of the school or schools entitled to and in the enjoyment of the first right of preference."

THE CHANCELLOR OF THE EXCHEQUER said, he would take that opportunity of stating the course which the Government intended to pursue with reference to this clause. After the strong objections which were urged by his noble Friend (Lord J. Russell) and himself on the part of the Government on a former night, it was only natural that they should endeavour to induce the House to rescind the clause altogether, or to alter it. He gladly admitted that, so far as respected many of the working objections which were then stated against it, they would be materially narrowed by the amendments now introduced by his hon. and learned Friend (Mr. Roundell Palmer), but the substance of the clause still remained intact. In deference to a considerable majority of the House, who had given their sanction to the principle of the clause, he should not ask that it be struck out of the Bill; but he should endeavour to induce the House to adopt two Motions. One of these he did not apprehend would draw any opposition even from the Mover of the clause himself. The effect of it would be that in all cases where, whether by a college or the governing body, the veto had been exercised, and no new scheme substituted or accepted, the scheme which had been rejected should, instead of waiting for the general Report of the Commissioners, be forthwith submitted in a Report to one of Her Majesty's principal Secretaries of State, in order to its being laid before the two Houses of Parliament, with a view to draw the attention of the Legislature to the case. A clause to this effect it was his intention to propose on the third reading of the Bill; but he also intended to propose as an Amendment on the clause of his hon. and learned

Friend the insertion, after the words "any emoluments," of the words "other than a fellow or studentship." The object of that Amendment was to leave to the schools, very much upon the principle on which the Bill was framed in its former shape, that which could be understood or construed to be an endowment for the purposes of education, but subject to review by the Colleges and the Commissioners, and at a subsequent period on appeal by the Privy Council, whatever scheme affected preferences when they came to apply to the teaching offices or governing offices of the University. A notice to this effect he now begged to place upon the books of the House.

MR. ROUNDELL PALMER said, he believed that the adoption of the Amendment, of which his right hon. Friend had given notice, would be inconsistent with the principles of his clause; he begged, therefore, to state that, as at present advised, he should be prepared to offer it his decided opposition.

The words proposed to be added at the end of Clause N were then *agreed to*.

In reply to Mr. WALPOLE,

THE CHANCELLOR OF THE EXCHEQUER said, that the Government did not contemplate any further amendments than those of which notice had been given; and that they intended taking the third reading of the Bill the first thing on Monday next.

SIR JOHN PAKINGTON said, the announcement of the Chancellor of the Exchequer that he intended to make a proposal which would go far to reverse the decision arrived at by a very large majority of the House would prove a surprise to a great number of Members who, since that decision, had gone into the country. Monday would also be a particularly inconvenient day, and he earnestly hoped that, considering the importance of the question involved in the third reading, the Lord President of the Council would consent to postpone the measure to a late period of the week.

LORD JOHN RUSSELL regretted that he could not comply with the request of the right hon. Baronet, as it was the desire of the House of Lords to have the Bill before them as early as possible. With regard to the principle of the measure, that had already been fully discussed, and he did not anticipate any long debate so far as that was concerned. And as to the clause of the hon. and learned Member

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(Mr. Roundell Palmer), he thought the proposal of his right hon. Friend the Chancellor of the Exchequer, whilst in some degree it modified that clause, would not go to alter it materially.

Bill to be read 3<sup>o</sup> on *Monday* next.

#### TOWNS IMPROVEMENT (IRELAND) BILL.

Order for Committee read.

House in Committee.

Clause 23 (Qualification of Electors at Elections of Commissioners).

MR. GEORGE moved the insertion of the words "as occupier of such lands, tenements, or hereditaments at a net annual value of 8*l.* or upwards." His object in proposing this Amendment was to render the Bill consistent with itself. As, for the purpose of summoning meetings and deciding whether the provisions of the Act should be put in force or not, an 8*l.* rating was sanctioned by the previous clauses of the Bill, he merely asked that, for the much more important functions of electing the Commissioners, upon whom very extensive powers of taxation and government would be conferred, the persons choosing such Commissioners should be of equal rank in society and be rated at an equal value.

SIR JOHN YOUNG said, he must oppose the Amendment, on the ground that it would have the effect of greatly limiting the number of persons who ought to exercise an influence and control in carrying out the Bill. With a 4*l.* rating, he believed many occupiers would be induced to pay their poor rates for the purpose of having a voice in the management of their own local concerns, and they would have a good, a respectable, and a solvent constituency.

Question put, "That those words be there inserted."

The Committee *divided*:—Ayes 26; Noes 85: Majority 59.

Clause *agreed to*; as was also Clause 24.

Clause 25.

LORD NAAS said, he begged to move the omission of this clause. The Bill proposed to consolidate various Acts, containing about 390 clauses in all. He deprecated the practice of incorporating extracts from old Acts of Parliament in new Acts merely referring to them; and he thought the Committee would do wisely to adopt his Motion, as it would help to get rid of the practice. The Commissioners for the Consolidation of the Law had condemned

the practice: Mr. Coade, one of them, had done so at some length. [The noble Lord read the passage for the Committee.] It was a practice productive of many evil consequences. On that ground, therefore, he moved the rejection of the clause. He moved it also, however, on the ground that it was an infringement of the privileges of that House, and that it gave power to the framers of Bills which was never contemplated. He objected to the clause likewise because it gave power to the Commissioners which in many cases they were incompetent to exercise.

SIR JOHN YOUNG said, he hoped the Committee would not agree with the Motion of the noble Lord. He concurred in the views of the Consolidation Commissioners; but the extract read by the noble Lord from their Report was inapplicable to the Bill before the House. He denied that the power conferred by the Bill was an infringement of the privileges of the House. The Bill was intended to supply the place of a private Act in places which were too poor to obtain a separate Act; and it was founded on the clauses of the Consolidation Act. Some arrangement should be made by which the clauses referred to would be made easy of access in a schedule.

MR. BOWYER said, he agreed in all the doctrines of the noble Lord (Lord Naas) in respect to the mode of legislation by reference; but he thought there was a great deal of weight in the objections of the right hon. Gentleman the Irish Secretary. He was of opinion that the Bill was not one of the nature contemplated by Mr. Coade; and he hoped the noble Lord would not press his Motion, as the Bill was greatly wanted in Ireland.

COLONEL DUNNE said, he thought the objection of the noble Lord was a perfectly reasonable one; but he was also of opinion that the plan proposed by the right hon. Gentleman the Secretary for Ireland was satisfactory in reference to it. None of the Irish Members were opposed to the measure, and though he (Colonel Dunne) had voted against the Government in the last division on the Bill, he had done so under a misapprehension.

*Motion negatived; Clause agreed to.*

Clause 26.

LORD NAAS said, he wished to move to insert after the word "say" the following Amendment—

"Every person who shall have been for twelve months preceding the 1st January in the years in

which such election is held the immediate lessor of lands, tenements, and hereditaments within such town or within such boundaries of the same respectively as aforesaid, of the value of 50*l.* or upwards, according to the last poor law valuation, and who shall reside within five miles of the boundary of such town."

*Amendment agreed to; Clause agreed to; as were also Clauses 27 to 29.*

Clause 30.

SIR DENHAM NORREYS said, he wished to propose an Amendment. The clause as it stood required the Lord Chancellor to approve of the person selected to fill the office of chairman of the town council. The purport of the Amendment was that the person elected should be considered duly elected unless disapproved of by the Lord Chancellor.

LORD NAAS opposed the Amendment, as he considered that the effect of it would be to throw an invidious duty on the Lord Chancellor.

MR. KEOGH said, as head of the magistrates of Ireland, the Lord Chancellor had constantly to fulfil a similar duty, and therefore he was surprised to hear hon. Gentlemen call the duty that was proposed to be assigned to the Lord Chancellor an invidious duty.

MR. GEORGE said, it would be more satisfactory to know that the names to be intrusted with this onerous office should be openly sent up to the Lord Chancellor, who ought to be required to give his sanction openly and directly to such appointments.

MR. MAGUIRE said, he wished to inquire why the Lord Chancellor should have the power of interfering with a person elected under this Act? When party feeling ran high, the Lord Chancellor might be advised to reject the person whom the electors had chosen.

SIR ROBERT FERGUSON said, it was proposed in this clause that the Chairman of the Commission should be a magistrate within the town for the purposes of the Act. It would be much better to make him a county magistrate.

LORD NAAS said, he thought the suggestion a most objectionable one, for it was equivalent to saying that the Commissioners might elect a county magistrate.

Clause, as amended, *agreed to*; as were also Clauses 31 to 45 inclusive.

Clause 46.

LORD NAAS said, he objected to that portion of the clause by which a power was to be conferred upon the Commissioners to compel every person who let

lodgings to make each day to the chief of the constabulary of the district a report of the number and description of persons who occupied house lodgings during the preceding night or day.

Mr. KEOGH said, the power the clause proposed to confer upon the Commissioners had already existed with respect to Scotland as provided in the Bill which had passed in the Session of the year 1851. The clause under the consideration of the Committee had in fact been copied from the 108th clause of that Bill. The power of compelling a report to be made would be vested in the Commissioners, who would of course exercise a sound discretion with reference to its exercise.

Clause *agreed to*; as were all the clauses up to Clause 55 inclusive. Clause 56 *struck out*; Clauses up to 68 *agreed to*. Clause 69 *struck out*; Clauses 70 to 72 *agreed to*.

Clause 73.

COLONEL DUNNE said, he thought the provisions of the clause were too stringent to be made applicable to the country towns of Ireland. It would be right also if the offences mentioned in the schedule were better defined.

Mr. KEOGH said, he must call the attention of the Committee to the fact that the power of imprisonment for fourteen days vested in magistrates was entirely a discretionary power. It was obvious, therefore, that such cases as a gentleman leaving a horse at a door while he entered the house, or a person selling a horse by auction in the street, were not the obstructions meant in the Bill.

Mr. NAPIER objected to such a wholesale discretion being vested in magistrates.

Mr. V. SCULLY said, that there were crimes dealt with by the clause for which imprisonment for fourteen days was an inadequate punishment.

Mr. AGLIONBY said, he thought the penalties under the Bill were altogether disproportionate to the offences. Thus, the same penalty, a fine of 10s., was imposed upon the man whose rabid dog accidentally got loose and on the man who set on his dog to worry a person. Besides, fourteen days' imprisonment was too severe a punishment as a commutation for a fine of 10s. He should certainly, if the clause were not amended in this respect, move an Amendment at a future stage.

Mr. KEOGH said, he would alter the clause, so as to meet the wishes of hon. Gentlemen on both sides of the House.

*Lord Naas*

Clause *agreed to*; as were also the remaining clauses.

House resumed; Bill *reported as amended*.

#### CONVICT PRISONS (IRELAND) BILL.

Order for Second Reading read.

Mr. I. BUTT said, he must express a hope that the right hon. Gentleman the Secretary for Ireland would furnish the House with some explanation as to the objects of this measure, before they were called on to assent to the second reading.

SIR JOHN YOUNG said, the necessity for the Bill arose from there being no law to empower directors of prisons or governors of convicts to regulate prisoners or to inflict punishment upon convicts for misbehaviour outside of the prison. The Bill proposed to remedy that defect. The necessity for the measure had arisen from the circumstance of the system of transportation having been put an end to in certain cases by the Bill of last Session. He found at the close of last year collected in the gaols of Ireland something like 4,000 convicts, who by last year's Bill would at the end of four years be restored to society. This measure proposed to establish a system of organisation and instruction for those persons during those four years. In Spike Island there was only accommodation for about 1,000 prisoners, who had been generally sent there because it was the most convenient place previous to their transportation, and because they could be employed in the fortifications about the place. There were, however, last year, 2,200 prisoners confined there, and there was no proper system of discipline kept up. The health of the convicts consequently suffered, and there was not labour sufficient there to occupy so many. In another convict prison at Mountjoy, there was only accommodation for 500. The Irish Government had determined to reduce the number of convicts at Spike Island to 1,400. The prison at Philipstown could only accommodate 300. By certain arrangements it was proposed to increase the accommodation to 400. In order to meet the evils referred to, the Bill proposed to build a prison for female convicts to accommodate 400, and the remaining accommodation required would be provided in the shape of a juvenile prison, or good movable iron houses placed in the neighbourhood of public works where the prisoners could be employed. A Commission had been appointed

ed to see how the accommodation required could best be afforded, and how the discipline of those prisons could be improved. The Commission were only waiting for the Bill to pass to carry their plans into operation. The present measure was almost taken verbatim from the English Prisons Act.

COLONEL DUNNE said, he thought that the right hon. Gentleman would see the necessity of improving the state of the prisons in Ireland by a better mode than that of appointing an expensive staff of officers to take charge of the prisoners. There were already in Ireland a staff of officers to take charge of these prisoners, and another staff for lunatics. Now, the present Bill proposed a third staff, which he thought quite unnecessary. He did not object to a system of corporal punishment under proper regulations; for when they had such a system established for soldiers, he did not see any reason why convicts should be without it. He should like to know whether the Government intended to keep Spike Island as a permanent convict depôt, or whether it was only intended to keep prisoners there until the public works about the place were completed.

MR. F. SCULLY wished to know how the new arrangement would operate with regard to the inspectors of prisons in Ireland. He thought the convict establishments in Ireland ought to be placed on a better footing. With regard to the ticket-of-leave system, he thought it was a wholesome and a sound system, but there was an abuse of it which he hoped would be taken into account if it were extended to Ireland. He meant the sending these men after their terms of imprisonment had expired back to the place where their offences had been committed, where they would naturally be again thrown into communication with their old associates.

Bill read 2<sup>d</sup>.

#### VICE ADMIRALTY COURT (MAURITIUS) BILL.

Order for Committee read.

House in Committee.

In reply to Mr. ADDERLEY,

MR. FREDERICK PEEL said, the Court of Vice Admiralty in the Mauritius had for the last twenty years been presided over by a gentleman who was Judge of the Supreme Court, and it had recently been discovered that at certain periods he had acted without due authority. During the twenty years frequent changes had

taken place in the government of the island, and some of the Governors had omitted to grant Commissions to the Judge of the Vice Admiralty Court; the object of the Bill, therefore, was to provide that any decisions which had been given by the Judge of the Court during the time he had acted, without regular commissions from the Governors, should be valid in the same manner as if such commissions had been issued.

Bill then *passed* through Committee.

House resumed; Bill *reported* without Amendment.

#### PRISONERS OF WAR—SUPPLY.

SIR JAMES GRAHAM said, that notwithstanding the lateness of the hour, he was anxious that the House should go into Committee of Supply, for the purpose of taking a Vote of 20,000*l.* for the expenses of prisoners of war. At the present moment he had no means afforded him by the House to meet this expenditure; and there was now an opportunity of purchasing a prison in Sussex at a moderate price, which was particularly well adapted for the reception of prisoners of war. At the close of last war the cost of prisoners was no less than 1,000,000*l.* annually, and at that time we had three great prisons in existence, all of which had since the war been either pulled down or transferred to other purposes, so that at this moment there was no public building applicable to this particular use. He only asked for the sum of 20,000*l.*, of which 5,000*l.* was intended to be applied to the purchase of the gaol at Lewes; and as the public service would be greatly expedited by this arrangement, he did not anticipate there would be any objection to go into Committee for the purpose of taking the Vote.

ADMIRAL WALCOTT said, he would suggest that some of Her Majesty's vessels now in ordinary should be applied to the reception of prisoners of war. Expense would be saved in that way.

SIR JAMES GRAHAM said, some ships had been fitted up for the purpose at Sheerness. He hoped before the end of the year to have prisoners enough to fill both.

House in Committee.

*Resolved—*

"That a sum, not exceeding 20,000*l.*, be granted to Her Majesty, to provide for the Expenses on account of Prisoners of War, which will come in course of payment during the year ending on the 31st day of March, 1855."

House resumed.

## CRUELTY TO ANIMALS BILL.

Order for Committee read.

House in Committee.

SIR JAMES EAST moved the addition of a clause to the effect that any person who shall, in any part of the United Kingdom, use any dog for the purpose of drawing or helping to draw any cart, carriage, truck, or barrow, shall forfeit and pay a penalty not exceeding 40*s.* for the first offence, and not exceeding 5*l.* for the second and every subsequent offence.

Clause (And whereas, by an Act passed in the second and third years of Her present Majesty, it was enacted, under a penalty, that dogs should not be used for the purposes of draught within the Metropolitan Police district, and it is desirable that such enactment should be extended to all parts of the United Kingdom, Be it Enacted, That any person who shall, in any part of the United Kingdom, use any dog for the purpose of drawing or helping to draw any cart, carriage, truck, or barrow, shall forfeit and pay a penalty not exceeding forty shillings for the first offence, and not exceeding five pounds for the second and every subsequent offence, such penalties to be recovered in like manner as is provided for the recovery of penalties under the Act of the twelfth and thirteenth years of Her said Majesty: Provided always, That if the conviction shall take place before two justices, it shall be lawful for such justices, if they shall think fit, instead of imposing a pecuniary penalty, forthwith to commit any such offender to the House of Correction, there to be imprisoned, with or without hard labour, for any time not exceeding three calendar months), *brought up*, and read the first time.

MR. CRAUFURD said, he objected to the clause.

Motion made, and Question put, "That the said Clause be now read a Second Time."

The Committee *divided*:—Ayes 47; Noes 13: Majority 34.

MR. FREWEN said, the clause had been four times rejected in another place; accidents of a grave nature had occurred in consequence; and he hoped, therefore, that if it was rejected again, those who rejected it would be the sufferers.

Clause *added* to the Bill.

The House resumed; Bill *reported*, as amended.

Notice taken, that forty Members were not present; House counted, and forty

Members not being present, the House was adjourned at half after One o'clock till *Monday* next.

## HOUSE OF LORDS,

*Monday, June 26, 1854.*

MINUTES.] PUBLIC BILLS.—2<sup>a</sup> Gaming-Houses.  
3<sup>a</sup> Edinburgh Police and Improvement; Public Statutes.

## TREATY OF ADRIANOPLE—EXPLANATION.

THE EARL OF ABERDEEN, in moving "for the production of a despatch addressed by the Earl of Aberdeen to Lord Heytesbury, His Majesty's Ambassador at St. Petersburg on the subject of the Treaty of Adrianople," said: My Lords, I have taken a somewhat unusual course upon the present occasion, but perhaps your Lordships will not think it altogether unjustifiable or unreasonable that I should be desirous of availing myself of the earliest opportunity to remove misapprehensions which have taken place, and which have led in consequence to great misrepresentations of some observations which I addressed to your Lordships in the course of the last week. My Lords, I could wish that those who have expressed an opinion upon the observations in question would take the trouble to read the report of that speech. I have done so myself; and although I declare that I have nothing to retract or to contradict, nevertheless I readily admit that, from the imperfect manner in which I always address your Lordships, there may probably—there may undoubtedly—be reason for further explanation, and some further development of that which I intended to address to the House, with a view to bring fully and clearly before your Lordships the views and opinions which I entertain upon the subject to which my observations referred. My Lords, I feel that I can do so with great ease, and, fortunately, in a very short time—otherwise, from the indisposition under which I suffer at this moment, I should not attempt to address your Lordships upon the present occasion. My Lords, the despatch for which I intend to move was first referred to in this House by the late Lord Grey, very shortly after he became Minister. It has been mentioned at other times, both here and in the House of Commons. It has also been moved for, but it has been hitherto withheld for various reasons. It was likewise referred to by

myself not very long ago, and I have now resolved to produce it, deeming this a fitting time; because I have read in print, and I understand there has proceeded from a very high authority in another place, the astounding declaration that I have recently claimed the honour of framing the Treaty of Adrianople. Now, my Lords, the production of the despatch in question will show you how far I was instrumental in framing that treaty, and what was my opinion, and the opinion of the Government whose organ I was on that occasion, and what were the opinions and feelings they entertained of that compact between the Porte and Russia. My Lords, it has been said—or, at all events, it has been inferred from what I said a few days ago—that I regarded the Treaty of Adrianople, if not with approbation, at least with indifference. Now, my Lords, the fact is, such was the impression produced by that treaty—such was the alarm excited by its conclusion—such were the supposed dangers which we dreaded to the existence of the Turkish empire—that the whole policy of the British Government was changed on a most material point in consequence of that treaty. I have already, I think, referred in this House to the fact, which your Lordships well know, that at the beginning and during the progress of the Greek revolution, Mr. Canning never contemplated the existence of Greece as an independent kingdom; neither did the Duke of Wellington ever contemplate the existence of Greece as an independent kingdom, but solely as a vassal State under the suzerainty of the Porte, somewhat similar to the provinces of Wallachia and Moldavia. When, however, the Treaty of Adrianople was signed, it appeared to me, and my noble Friend at the head of the Government at the time agreed with me, that the condition of the Turkish empire was so perilous in itself that it would be extremely unwise to create a State and to place it under the protection and suzerainty of an empire which itself was exposed to extreme peril, and whose existence was not to be counted on for any time with the least degree of certainty. Therefore we agreed to propose to our allies to convert that vassal State into an independent kingdom. Our allies agreed with us, and the Porte at last assented to our proposal. Hence the existence of Greece as an independent kingdom is due to the impressions produced upon us by the terms of the Treaty of Adrianople. My Lords, what I

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have now said shows at least what were our impressions with regard to that treaty; and although they may be thought by some to have been erroneous, I can assure your Lordships that at the time they were unquestionably honest and sincere. I fully admit that the apprehensions which we then felt have turned out to be greatly exaggerated. However disastrous the Treaty of Adrianople, and however mischievous its conditions, nevertheless we have the experience of the last twenty-five years to assure us of the continued existence of the Turkish empire; and more than that, we have had proof of the vigour, of the energy, and of the courage and perseverance with which the troops of that empire have maintained the integrity and independence of their country. It is obvious, then, that we were under the most exaggerated alarm for the consequences of the Treaty of Adrianople. Now, my Lords, I do not mean to say that, although fortunately we were somewhat mistaken as to the amount of the danger to be apprehended from the Treaty of Adrianople—I do not mean to say, nor have I ever pretended, either the other night or at any other time, that that treaty was not, in the highest degree, dangerous and prejudicial to the interests of Europe. My noble and learned Friend (Lord Lyndhurst) called it, I think, an “unfortunate” treaty. My Lords, that is not a word sufficiently strong to describe the character of that treaty. True, my Lords, I said the other night that, disastrous as the Treaty of Adrianople was, Russia had made no great territorial acquisitions in consequence of that treaty. I said so as the simple truth. I was induced to say so at the moment, and perhaps to dwell upon it, in consequence of a declaration, most exaggerated and most unfounded, that my noble and learned Friend had made, that the Russian empire had doubled its territory in Europe in the course of the last fifty years. That I hold to be completely incorrect, and with the recollection of the Treaty of Adrianople before me, I certainly did refer to it in proof that no such extension of territory had taken place as that asserted by my noble and learned Friend. But, my Lords, although I knew perfectly well, and indeed I think there can be no doubt of the fact, that no considerable extension of territory has taken place in consequence of that treaty, nevertheless, I was not at all the less aware of the importance of the acquisitions that

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had actually been made by that treaty. I know perfectly well the importance of the acquisitions which Russia has made with respect to the navigation of the Danube; and I am equally sensible of the importance of the posts which she has acquired in Asia, which, although small in extent, are, from their character, of the highest political importance. My Lords, as the despatch for which I intend to move is long, and will be immediately upon the table of the House, I will not fatigue your Lordships by reading it *in extenso*; but I must trouble you with a single extract, to show that, although I dwell strongly the other evening upon the limited extent of the territorial acquisitions made by Russia, I did not in the slightest degree mean by that to invalidate the political importance of the acquisitions actually made. The passage is expressed in these terms:—

“It may not be easy to accuse of want of generosity the conqueror who checks the unresisted progress of success, and who spares the defenceless capital of his enemy. Nevertheless, the treaty in question—certainly not in conformity with the expectations held out by preceding declarations and assurances—appears vitally to affect the interests, the strength, the dignity, the present safety, and future independence of the Ottoman empire. The modes of domination may be various, although all equally irresistible. The independence of a State may be overthrown, and its subjection effectually secured, without the presence of a hostile force or the permanent possession of its soil. Under the present treaty the territorial acquisitions of Russia are small, it must be admitted, in extent, although most important in their character. They are commanding positions, far more valuable than the possession of barren provinces and depopulated towns, and better calculated to rivet the fetters by which the Sultan is bound.”

[A noble Lord: What is the date?] The despatch is dated the 31st day of October, 1829. My Lords, the extract I have read shows that the small extent of the territorial acquisitions made by Russia did not blind me to the importance and character of what had been obtained; and, therefore, when the other night I dwelt upon the absence of any great territorial acquisitions, of course I did so with a view to contradict the fact asserted of my noble and learned Friend, and to state what may be termed a geographical truth, but without the slightest reference to the undoubted political importance of those political acquisitions which have actually been made by that treaty. My Lords, the conclusion of the Treaty of Adrianople was the commencement of a change of policy on the

*The Earl of Aberdeen*

part of Russia. It is highly probable that if the policy of the Empress Catherine had been pursued in the Treaty of Adrianople, great acquisitions of territory would have been obtained. But, as I have said, at that time Russia commenced a change of policy which has been carried on to the present day with ever-increasing vigour, and which accounts, to a certain extent, for the absence of those territorial acquisitions which, in other circumstances, would no doubt have been made. But this change of policy was not a change of intention—far from it. That change of policy consists in this—Russia, instead of pursuing the policy which was followed in the preceding century, has, since the conclusion of the Treaty of Adrianople, looked to the extension of her political influence rather than to the acquisition of territory. A very prudent and politic change it has been. We have all heard of

“Satan, now grown wiser than of yore;”

and, perhaps, the line is not inapplicable to the Emperor of Russia, in having determined to pursue the same objects by different means—by means calculated not so greatly to alarm the European Powers. I believe this is the secret of all that has taken place in recent years. Take, for example, the Treaty of Unkiar Skelessi, concluded when a Russian army was in possession of Constantinople. There can be no doubt that if the former policy of the Empress Catherine had been followed upon that occasion, great territorial acquisitions would have been made, and could not have been resisted in the relative positions of the two Powers at the time; but in consequence, as I believe, of the change of policy commenced by the Treaty of Adrianople, the demands of Russia at the conclusion of the Treaty of Unkiar Skelessi, though they were unquestionably of the highest importance both to Russia and the Porte, did not assume the character of territorial aggrandisement, but privileges were exacted which were highly important to Russia to receive and highly injurious to the Porte to grant. So with the mission of Prince Menchikoff himself. Russia was in a position in which she might have made demands of the most pressing nature upon Turkey. She had some reason for adopting that course; but, instead of exacting anything like territorial indemnity, she at once pressed for an increase of privileges—for additional privileges—and if she had obtained those additional

privileges for her hierarchy, for her co-religionists in the Turkish empire—I have no doubt that the invasion of the Principalities would never have taken place, or would immediately have ceased on the Sultan complying with her demands. But, of course, we felt—Europe felt—that the independence of Turkey would be as much endangered by the cession of such rights and privileges as were claimed by Russia as it would have been had she made a positive demand for territorial indemnity; and therefore it was that the pretensions of Russia were resisted. Now, my Lords, I have been supposed to say also that I desired, or did not object to, a return to the Treaty of Adrianople, because I stated that if we could obtain a peace which should last for twenty-five years we should not do amiss. Nor should we; but when I said that, I never for a moment meant to convey the impression which it seems my words have produced. I never said a word to imply that I desired to return to the Treaty of Adrianople. What I said, or intended to say, was, that the Treaty of Adrianople had given us peace for twenty-five years, and that if by any treaty which the fortune of war might enable us to make we should secure peace for an equal length of time, I said then and I say now, we should not, considering the instability of all human affairs, do so very far amiss. Therefore, my Lords, I am quite at a loss to conceive upon what ground any one should dare to say, first, that I have claimed the honour of making the Treaty of Adrianople, and next, that I approved of or was indifferent to its conditions, and was ready to return to and renew it without reference to its character or to the present posture of affairs. I am at a loss to conceive how such assertions could have been made. I have explained to your Lordships how it came that I insisted the other evening upon the limited extent of the territorial acquisitions which Russia has made in consequence of the Treaty of Adrianople, arising, as I have said, from the change of Russian policy at that time. My statement upon that point is perfectly true; it is incontrovertible; but it was intended to be qualified in the manner which I have now stated to your Lordships. I feel, therefore, that I have nothing further to say of the Treaty of Adrianople. It has also been said that I recommended a return to the *status quo*, or, at least, that I would not object to it. Now, my Lords, this

statement surprises me more than anything else, because I thought I had taken special care to explain that point in my answer to the observations of my noble and learned Friend. I stated that that might be the cause of some apparently ambiguous expressions used by Austria and by Prussia, as compared with the expressions used by ourselves, and I said that Austria and Prussia might be desirous to restore the *status quo*; but, at the same time, I made the specific declaration that that was by no means applicable to us—that is, to England and France. You are aware, my Lords, that before the declaration of war the *status quo* was all that we hoped for—all that we desired—all that we attempted to obtain, and that was the condition which the Turkish Government signified its willingness to agree to. This was communicated to the Emperor of Russia; what is called the Vienna Note was framed upon the understanding come to by all the Four Powers, that the relations between Russia and Turkey should revert to the *status quo*. We thought that was quite as much as the Emperor of Russia could expect to be offered, and much more than he had any right to expect. But, my Lords, we proposed that note in the hope that we should be able to preserve the state of peace, and if the Emperor of Russia had listened to anything but the voice of those passions by which he was at that time moved, he would have been arrested from entering upon a course where all the evil passions that war engenders would be let loose. But the instant that war was declared, the state of the question was entirely altered. From that moment everything depended upon the war itself; we were left free to exercise our own judgment—to do that which we think will best suit our own interests and policy in framing the terms of peace. From that moment the *status quo* was entirely at an end for us. I also said, as to the terms of peace, that, however desirable, however necessary we might think certain terms to be, still it would be unwise in us now, in the present state of the war, to lay down any conditions of peace as those to which alone we will accede. These must depend upon the events of the war; and in the debate to which I have already referred I recollect I did say, that the conditions of peace would be very different if we found the Russians at Constantinople from what they would be if we found ourselves at St. Petersburg. Well, my Lords, within the

whole of that scope lies the variation from the *status quo*. How far we may deviate from the *status quo* no man can at this moment say, because that must depend upon events which are not within our power absolutely to control. But this we can say, that the independence and integrity of the Ottoman empire are undoubted conditions—they constitute the *sine quâ non* that must be secured, and secured effectually. But how that is to be done must again depend upon the progress of events, and the course of the negotiations which may take place at the moment—but that security must be taken—security for the independence and integrity of Turkey, so far as depends upon Russia, must clearly be the object from which we are determined not to depart. But again, I say, how that is to be obtained neither I nor any man in this House is able to say. We know what our object is—our main object at least—and of course by one mode or another we will obtain that without which peace is impossible. I think, also, exception has been taken to some expressions of mine, as if I expressed doubt or disbelief of any danger from Russian aggression. Now, I wish to be clearly understood that I have the greatest alarm as to Russian aggression against Turkey; and against that aggression in any shape—whether in the shape of influence, whether in the shape of conquest, or in any other mode—we are prepared to protect her. But, with respect to Russian aggression upon Europe, independent of her designs upon Turkey, I certainly did express no great alarm, because I feel no great alarm, and I am inclined to feel less and less every day. If Russia, indeed, could be supposed to be in possession of Constantinople—if she had made good her aggression upon Turkey, and were in possession of Constantinople, then, indeed, I should feel alarmed for Europe, because I think Russia would acquire then the means of becoming formidable and dangerous to Europe. Without that, my Lords, I cannot pretend to say that I feel any great alarm on this point. I consider France to be more powerful than Russia and Austria put together; and it is, therefore, impossible for me to look upon Russia with any great alarm out of her own frontiers, or in such a light as would induce me to think that it would be better to enter at once into a state of war in order to repress dangers which I do not believe to exist. Danger from Russia against Europe appears to me mainly, if not entirely, to

*The Earl of Aberdeen*

depend upon her power in Turkey and in the East. If that power be checked—and it is to be hoped that we shall succeed in keeping her entirely free from exciting further alarm in the Turkish territories—then I cannot possibly think that there need be any very great alarm as to what she may do to Austria, or Prussia, or France, or England. This, however much it has been misunderstood, was really all that I meant to express as to my general incredulity of any danger from Russian aggression. I have now shown your Lordships what sort of aggression it is that I am afraid of, and what sort of aggression it is that I am not afraid of. I am not aware that there is any other part of the observations which I addressed to your Lordships the other night which requires further explanation. I believe I have already explained everything which, from being misunderstood at the time, appeared to be calculated to excite feelings of distrust in the Government. My Lords, I wish I could confine myself to this explanation, and to the development of those sentiments which I entertain, and which appeared to me necessary to be explained to the House. I could have wished certainly that I might have been spared the necessity of saying anything about the extraordinary and absurd imputations—the personal imputations—to which I have been exposed. I have no fear that your Lordships, who are accustomed to weigh the actions and the sentiments of public men, will fail to comprehend the motives from which I have acted; and the misrepresentation of them has been so ludicrously absurd that I feel—indignant as I am—I feel it would not be worthy of the position which I now occupy—it would not be worthy of the memory of those with whom I have acted—it would not be worthy of my own character, if I were to condescend to enter upon any justification of my personal motives on accusations so absurd and preposterous. My Lords, it is true that I have more than any other man struggled to preserve the state of peace for this country. I have done so because I thought it my duty to the people of this country—my duty to God and man—first to exhaust every possible means of preserving peace before I engaged the country in war, and my only regret is—though I trust your Lordships will acquit me on that point—my only regret is, lest I should not have done all, and lest in any way I should have lost some possible means of averting what I consider the greatest calamity that can

befall a country; for, however glorious any war may be, the calamities which accompany it are heavy enough greatly to outweigh that glory. I know it has been said if you love peace so much, you are unfit for war. My Lords, though peace is so dear to my feelings, still I am convinced of the necessity of this war. But how do I wish to make war? I wish to make war in order to obtain a peace; and I know well that the best and surest mode of making war in order speedily to obtain a peace is to make that war with the utmost vigour and determination. My noble Friends near me know well enough that, peaceable as I am, I have never shrunk—that, on the contrary, I have always been most ready to co-operate with my Colleagues—that I have given my most ready concurrence to the most active measures of hostility and warlike preparations. Nay, more, I believe I may say they will admit that I have personally been more urgent than perhaps any other man in exhorting the speedy concentration and advance of the allied forces north of the Balkan, in support of the gallant army of Omar Pasha, and to extend a helping hand to Austria in order to enable her to carry out her professions, and to take an active part in the operations of the war. This, except for the warmth of the feelings under which I speak, I ought not, perhaps, to say; but it is the truth that, in the course we have taken, I have invariably urged the most decided course of action. My Lords, I have now no more to say. I wish to confine myself to this subject without entering upon other topics more or less connected with the general policy of the war, or with the events that led to it, or that may follow from it—I wish to remove misunderstandings which I feel to arise from perfectly erroneous interpretations of what I said in this House; and I now declare that, so far from my former endeavours to preserve peace disqualifying me from carrying on the war, I think, though of course I may be wrong in the particular means, I think we ought to have recourse to the most efficient, the most prompt, the most successful means of carrying it on. I maintain and assert, therefore, that my very love of peace induces me, now that we have entered upon this war, which I unquestionably believe to be a perfectly just war, to use—so long as I have anything to do with the Government—those means best calculated to bring it to an advantageous conclusion, and to secure a safe and honourable peace.

*Moved—*

“That an humble Address be presented to Her Majesty for Copy of a Despatch addressed by The Earl of Aberdeen to Lord Heytesbury, His Majesty's Ambassador at St. Petersburg, on the Subject of the Treaty of Adrianople.”

THE MARQUESS OF CLANRICARDE said, he was glad that the noble Earl had, upon reflection, thought it right and necessary to retract, as well as to explain, a great portion of the speech which he had made the other night, partly in answer to that luminous, and in some respects marvellous, speech delivered by the noble and learned Lord (Lord Lyndhurst), for the advantage of this country and of Europe, and for which Europe and this country would feel grateful, but partly also in answer to the speech of the noble Earl (the Earl of Clarendon) the Secretary for Foreign Affairs. Although, however, he (the Marquess of Clanricarde) was happy that the noble Earl (the Earl of Aberdeen) had thought it necessary to retract—[The Earl of ABERDEEN: No!]  
—he thought the noble Earl did retract or explain away great portions of his speech on the former occasion—the question which the noble Earl had now brought before their Lordships was one of infinitely wider scope than the question of the precise terms or the immediate effects of the Treaty of Adrianople. He understood the noble Earl, by his Motion, and still more by his speech, to state to the House not merely his views on the present war, but his past and permanent foreign policy in general. The noble Earl had gone back to the year 1829, and had more than once stated that he had been consistent—in which he was correct—and he had done this for the purpose of laying before their Lordships the grounds on which he thought himself entitled to claim the confidence of Parliament and the country in conducting this war to a termination, and negotiating the peace which may follow it. This was a wide question which the noble Earl had mooted, and one which undoubtedly he (the Marquess of Clanricarde) would not have mooted himself; but as it was mooted, he would not shrink from it—and while he admitted to the noble Earl (the Earl of Aberdeen) that, throughout his public life, he had acted with perfect consistency, he claimed credit to himself also for similar consistency—because, from the year 1829, and even earlier, he (the Marquess of Clanricarde) had differed from the noble Earl on almost every principle that had actuated his foreign policy; he thought

the sentiments and opinions which had dictated that policy had been the principal causes of the present war, and, judging from the experience of past years, unfitted the noble Earl for being the chief adviser of Her Majesty in conducting it. Before going into that subject he must say one word of the immediate Motion before the House, and something of the apparent disrespect with which the noble Earl had treated Parliament in regard to the very despatch he was now about to produce. The noble Earl stated that he had years ago desired its production—that the late Earl Grey and the late Lord Melbourne had considered it so full of peril that it was not produced. More lately, it had been adverted to and quoted by the noble Earl himself; and then, when an hon. Member of the other House, very properly thinking that any public document from which a Minister of the Crown quoted ought to be produced, moved for its production, in February last, the answer of Lord John Russell to that Motion was, that he could not say whether it would be produced without consultation with the noble Earl (the Earl of Aberdeen). That consultation was held, and the result was announced—that the despatch could not be produced. And yet now, after all, the noble Earl, for his own vindication and personal convenience—perhaps it was necessary for his own vindication, but in any case from purely personal motives—produced this very despatch, which had so often and so long been refused to the reiterated requests of Members of both Houses of Parliament. And do not let him be told that this wonderful document, which had been so much talked of, and which was now about to be submitted to profane eyes—do not let it be said that the contents were of so inflammatory a character that, though it might be produced now that war was declared, it could not with safety have been produced in February last, when war had not been declared—because the noble Earl had the other night, smarting under the effect of that extraordinary speech of the noble and learned Lord (Lord Lyndhurst), taunted the noble and learned Lord by saying that his philippic against Russia—as the noble Earl called it—might have been of some service a few months ago to inflame the feelings of the country to raise the nation in preparation for war, but that now, when war was going on, it was unsuited to the occasion; because, if that were true with regard to the noble and learned Lord's

*The Marquess of Clanricarde*

observations, it would be equally true with regard to the production of this despatch. It was clear, therefore, that this could not be the reason why the despatch in question had not been produced; and it was plain that, if it could be produced now, it could have been, and it ought to have been, produced last February. He (the Marquess of Clanricarde) would now advert to that reference which the noble Earl had made to the period of 1829. The noble Earl had, on assuming the position which he now occupied, made a general statement of his views, and was reported to have declared that the main principles of the foreign policy of this country had not varied for thirty years past—that the execution of those principles might, indeed, have varied according to the individual to whom that execution had been intrusted, but that the main principles of our policy had not in themselves varied. He (the Marquess of Clanricarde) differed from the noble Earl in that statement, and considered that the differences in our foreign policy during that period had been fundamental and differences of principle. During the last thirty years contending principles had been in conflict over the Continent of Europe, and during that time the different Governments and different Ministers of England had varied their policy, and directed the affairs of this country, very much according to the views they had themselves taken of those principles; and he thought that from the first, from 1829, when the noble Earl was at the head of Foreign Affairs, down to 1846, when the noble Earl was again in the same position, and now in his present position, the noble Earl had been the consistent, zealous, and earnest supporter, in every quarter, of arbitrary Government. [The Earl of ABERDEEN: Hear, hear!] The noble Earl, he repeated, had been the supporter of all the views of the arbitrary Powers of Europe, and at all times the advocate and adherent of the Emperor of Russia. [The Earl of ABERDEEN: Hear, hear!] Yes; the noble Earl had on every possible occasion befriended those arbitrary Powers, and had opposed, upon every possible occasion, the progress and recognition of constitutional reforms in the countries with which he had to deal. [The Earl of ABERDEEN: No!] The noble Earl cried, No; therefore he must give the noble Earl some reasons for the statements which he made. He would refer back to the period of the Treaty of Adrianople. The noble Earl

had told their Lordships that he had regarded that treaty as disastrous, that he had written a despatch to our Ambassador at Constantinople about it; but he (the Marquess of Clanricarde) did not want to know what the noble Earl had written to St. Petersburg in December about a treaty which had been signed in September; but what he did want the noble Earl to tell them was, what despatch the noble Earl had written to our Ambassador at St. Petersburg about it, before the treaty was signed. Their Lordships wished to hear what steps the noble Earl had taken for the purpose of preventing the treaty from being signed. The noble Earl had stated, on a former occasion, that the Russian Emperor, at that period, was in the position of a conqueror—virtually master of the country, and rapidly advancing on Constantinople, and that if he had persevered he might have overturned the Government of Turkey. Now, if the noble Earl did not know the real state of the case at the time the treaty was signed, which, if proper care had been taken, he might have known, yet, surely, he ought to have known in December of that year, when he wrote that despatch (and most assuredly he ought to know now), that, although the Russian army did arrive at Adrianople as conquerors, the Russian general commanding there had not above 15,000 men left, of whom not above 8,000 were effective, the rest having become *hors de combat* through fatigue, disease, or wounds, while the Turkish general was at no great distance with an army of 25,000 Albanese; so that if the Turks had been furnished with the least information as to the true state of affairs that disastrous treaty would never have been signed. If the noble Earl, as the Foreign Minister of this country, had at that time only held up his finger, the treaty would not have been concluded. But what was the course the noble Earl pursued? The Russian general allowed but a short time to the Turkish general to consider whether he would sign the treaty, well knowing that if there were a longer delay his own position would be discovered; he, therefore, did not give beyond five or six days, and when the treaty was taken to Constantinople the Minister of Turkey summoned to his councils the Ambassadors of Austria, Prussia, and England, and asked their advice; and what was the advice tendered by the English Ambassador? It was, to sign the treaty—that

treaty which the noble Earl now said he knew at the time was so disastrous. Who was our Ambassador at that time? The late lamented and able diplomatist Sir Robert Gordon (who had shortly before, in a rather summary manner, superseded Sir Stratford Canning)—one who doubtless was fully cognisant of the sentiments of his Government and especially of the noble Earl on the subject, at the time he offered to the Turkish Government that advice to sign the Treaty of Adrianople, upon which the noble Earl had subsequently written that despatch. When, then, the noble Earl referred to the period of the Treaty of Adrianople as affording proofs of what his feelings were upon Russian aggression, let the noble Earl state what steps he took to prevent the treaty from being signed—and not talk about a despatch written after it was concluded. The noble Earl spoke of the despatch as characterised by so much asperity, forthright! but it was plain that that despatch had done the noble Earl no harm in the eyes of the Emperor of Russia, for the noble Earl must not think that the country had forgotten the terms of fulsome flattery and affectionate friendship which the Emperor had addressed to him on his assuming office, or those confidential communications of former years, then referred to, and which showed that the Emperor, far from regarding the noble Earl as an enemy, regarded him as his fervent and most reliable friend. The noble Earl had told their Lordships what had been the effect of the Treaty of Adrianople on the policy of the British Government at that time, and that whereas, before the treaty, they had considered that Greece should continue a portion of the Turkish empire, when the treaty was signed, and they found the power of Turkey in so much peril, they concurred in detaching Greece from Turkey. Thus, because the treaty was so "disastrous," on that account Turkey was to lose Greece, which the Government of the noble Earl had previously meant to leave to her. Such was the noble Earl's way of reasoning as to Turkey; such his strange mode of settling the balance of power which had been so disturbed by that "disastrous" treaty—though how the removing of Greece from Turkey was likely to strengthen and support Turkey he confessed it was past his comprehension to understand. The noble Earl had, indeed, said that we had enjoyed twenty-five years of peace in consequence

of the treaty—he presumed the noble Earl meant, for he could only mean, peace between Russia and Turkey. Peace! What was it the noble Earl—what was it that he a Minister of England—considered “peace?” Was it a state of things which a British Minister could describe as “peace,” when all knew the cabals, intrigues, encroachments, and even military invasions of Turkish territory, which had repeatedly taken place during those twenty-five years on the part of Russia? Was that the noble Earl’s notion of a peaceable neighbour? What could be the notion of the duty of the Emperor of Russia towards Turkey in the mind of a Minister who could describe those twenty-five years as years of peace, although ten years ago there had been made to him, and as soon as he had assumed the Government of this country there had been repeated to him, a proposition for considering the partition of that country towards which he now told them that Russia was a peaceable and well-conducted neighbour? Was that the morality the noble Earl would fain see imitated by powerful neighbours towards weaker Powers? Yet the noble Earl had actually called the Emperor of Russia a “peaceable” and a “serviceable” ally of Turkey, that Emperor who had twice in ten years made proposals to the noble Earl himself for a partition and appropriation of her territories. The noble Earl had ironically cheered the character which he (the Marquess of Clanricarde) had ascribed to the general foreign policy of the noble Earl during the last twenty or thirty years. But if they reverted with the noble Earl to his despatch for 1829, it would be found that there were other great questions which at that time had agitated Europe and had been discussed in the Parliament of this country. At that time there was a contest going on in Portugal, which had always been described to be a contest essentially of opinion. Dom Miguel was at that period the chief under whom arbitrary rule and despotism were contended for in the Spanish peninsula, while Donna Maria, the legitimate heiress to the throne, was in favour of a constitutional Government. What was then the conduct of the noble Earl? He was the mainstay of Dom Miguel, and, if he had not been in power at that time, he defied any man to say that Dom Miguel would have ever acceded to the throne, which he had usurped for a short time, of Portugal. Perhaps the noble Earl would say, that

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he had not recognised Dom Miguel. True, he had not, but at the same time he prevented the sailing of an expedition which would have dethroned the usurper, and his refusal to recognise him proceeded from no dislike to his arbitrary principles, but because he would not comply with some special conditions which the noble Earl attached to his recognition. He had, however, given to Dom Miguel and the Absolutists in Portugal all the support which he dared and was able to give, and a great deal more than was approved by the Parliament or the country of Great Britain. But was that all? How did matters stand a little later in Spain? Was not the noble Earl continually finding fault with what was done there for the support of constitutional institutions? He was continually in the habit of criticising the Quadruple Alliance, by means of which a constitutional Government was established in Spain, and he was notoriously attached to the cause of Don Carlos. [*Dissent.*] The noble Earl shook his head, but he would refer him to still another matter. What did he say to the case of Belgium? After the French Revolution, the Belgians, who were suffering, not only from national feelings, but from very grievous results of misgovernment, revolted; the noble Earl, who was then in office, talked of it as a revolt, and openly expressed his wish that the authority of the King of Holland might be re-established. He did not blame the noble Earl for holding that language when the revolt was in progress; but what did he say in 1832, after the separation of the two countries had been completed? He then told the House that nothing surprised him as a cause of rebellion in any country, but that the Belgian revolution was the most senseless and unintelligible of any recorded in history. Those were his sentiments in 1832, and that was all the sympathy he manifested towards a gallant people, who had thrown off a yoke which they were unable to bear, and who were then engaged in laying the foundations of a constitutional Government, which had been the means since of showing the Continent of Europe how much loyalty and liberty were compatible with each other, and how the arts and industry flourished best under a constitutional form of government. He must say he had been astonished to hear the noble Earl, on a former occasion, taunt the noble Earl opposite (the Earl of Derby) with having received the compliments of Prince Schwarzenberg on his accession to

office. There was no one of their Lordships who could mistake for a moment what those compliments meant. The noble Earl opposite had received them because he had been thrown by the vicissitudes of party into the same Cabinet and Government as the noble Earl, of whom he was consequently at one time a supporter and an abettor, and whose policy it was supposed he would carry out and continue. The noble Earl took credit to himself for being the author of the *entente cordiale* with France. But as the noble Earl had carried them back to 1829, it was not to be forgotten that in that year Prince Polignac had left this country for Paris to become the Minister of France. It was perfectly notorious that the noble Earl long had wished Prince Polignac to be the French Minister. He was Minister for a few months, and they all knew the catastrophe which followed. The noble Earl (the Earl of Aberdeen) had laboured in vain to do away with the effect which his speech of the other evening had produced both in this country and on the Continent. The noble Earl, perhaps, was hardly aware of the entire effect it had produced abroad. It was not merely a question of whether it contained this or that particular phrase or expression; the entire performance, its general effect and purport, must be regarded as it issued from the noble Earl's lips. Whose speech was it that the noble Earl really and virtually rose to answer? He rose evidently to reply to the speech of the noble Earl the Secretary of State for Foreign Affairs, who had quite adopted the reasoning and conclusions of the noble and learned Lord (Lord Lyndhurst); and it was in despair at this that the noble Earl the First Minister of the Crown, rose, and—"out of the abundance of the heart the mouth speaketh"—had given vent to his own sentiments in the speech which had excited such universal astonishment and indignation that the noble Earl now came down to the House to endeavour to explain it away and mitigate its effect. It was in his (the Marquess of Clanricarde's) power to produce a most impartial witness as to the effect of the speech. *L'Indépendance Belge* was a paper which more than any other, perhaps, circulated on the Continent. Let it be remembered that the noble Earl had attempted to justify the vacillation, delay, and hesitation which have characterised the whole of our proceedings in regard to Russia, from a desire to carry with him the Go-

vernments of Europe, and especially of Germany. Well, here was a paper published on the borders of Germany, and circulating most widely in that country. How did it sum up the substance and the scope of the noble Earl's speech the other night? The gentleman who reported for it endeavoured to exercise a very impartial judgment, and in his telegraphic despatch, which, of course, gave a very few lines to each speech, the speeches, including that of the noble Earl, were thus reported—

"Londres, Mardi.

"Dans la séance de la Chambre des Lords de la nuit dernière, Lord Lyndhurst a appelé l'attention du Gouvernement et de la Chambre sur le *Memorandum* relatif à la question d'Orient transmis par les cours de Vienne et de Berlin à leurs envoyés respectifs près de la Diète Germanique.

"Les Lords Lyndhurst et Clarendon ont déclaré qu'il fallait que la Russie fournît des garanties matérielles contre le retour des actes d'agression qui ont provoqué la situation actuelle.

"Lord Derby a soutenu qu'il fallait que la Russie fût contrainte à restituer les territoires dont elle s'est rendue maîtresse au détriment des nations voisines. Lord Aberdeen a essayé de justifier la conduite de la Russie, et plaidé la cause de la paix."

That was a just, though terse, summary of the speech of the noble Earl, and that was the view that was entertained of it over the whole Continent. He would appeal to their Lordships whether (even assuming that these were not the sentiments of the Cabinet, but only of the noble Earl) it was well that such opinions should be put forth by the First Minister of this country at such a period. "The noble Earl justified the conduct of the Emperor of Russia, and pleaded the cause of peace!" He thought that, for a short summary, that gave fairly the tenor of the noble Earl's speech, for he thought that the noble Earl had justified the Emperor in some of his acts, and had pleaded very strongly in favour of peace; but was that a wise speech for an English Minister to make at a time when we were engaged in a struggle which, whether or not it were to be speedily closed, as the noble Earl hoped, was one which must call on the people of this country to make great and generous sacrifices for its support. So far from directly or indirectly "pleading the cause of peace" at such a crisis, the language of the Minister of the Crown ought to have been of a totally opposite character. He ought to have used such language as would have stimulated the zeal and the exertion of every one engaged in the service of the country, from the admiral and general down to the humblest

private soldier, seaman, or drummer-boy, by the conviction, that the war they were engaged in, and in which they were exposing their lives and enduring all sorts of hardships, was absolutely necessary; that it was a war against unjust aggression, and that it was carried on only because the interests of the country and of Europe imperatively demanded it. The noble Earl said that he had been the most of all urgent in hurrying forward the preparations for the war; that was a question between the noble Earl and his Colleagues, although he had certainly come to a very different conclusion, and he wished the noble Earl, who had thought it necessary to correct other misapprehensions, had taken an earlier opportunity of correcting misapprehensions which were entertained throughout the country and the Continent with regard to his sentiments upon the war; because he could state that to his knowledge it was believed throughout Germany, and he believed it had gone still further, that from first to last the noble Earl had not hesitated to say repeatedly, that such was his recollection of the horrors of war, that, come what might, to war he would be no party. This now turned out to be a misapprehension, for the noble Earl now told them that he was engaged at the time he was supposed to have such feelings in hastening the preparations of war. Their Lordships were now in possession of a good deal more information than when this subject was discussed at the beginning of the Session. The information they now had from Russia was more full and accurate than at that time, and they knew more now of what was passing in that country, as many persons who had been residing there had since been obliged to return to England. They knew now what had been going on in the Russian capital in the month of December last, and also what was taking place in other considerable towns of that empire. He could state it as a fact, that he knew the plan of the campaign, which had been attempted to be executed, had been drawn up by the highest military authorities in Russia—that it had been communicated to the heads of the different military corps in the month of December last. He contended that it was impossible that this Government could not have had information of the fact, that the plan was not for the occupation or retention of the Principalities alone, but it was one for crossing the Danube, for the siege of Silistria, for the

establishment of magazines on the opposite bank, for the masking of Schumla, and proceeding with the army by the lower road, with every contingency provided for during the march, to the other side of the Balkans. This complete plan had been discussed in military circles at St. Petersburg, and the other towns of the empire, in the month of December last. It was impossible that the Government of this country could not have been aware of the fact at least in the course of the month of January. More than that, the common talk in military circles was of what would be done by the other foreign Powers; it had even been discussed what should be done in the event of 30,000 or 40,000 English and French troops being met at or behind the Balkans;—and this contingency was always held to be impossible and incredible, in consequence of the language which had been held by the English Government, so that it never entered into the calculation or hypothesis of the Russian authorities. If the British Government was ignorant of these things, they were extremely ill-informed by their agents; and if they were informed of them, was it right or proper that the noble Earl should have come to that House in the month February last and talked of peace, and held out hopes of a pacific settlement, while he neglected to give orders for those preparations which he should have given in the month of January or February? But when were our preparations begun? That was a question that had not been yet ascertained; and of course he could not be supposed to have access to any official information on the subject. At the same time things would creep out, because the subordinate officials of the Government would not labour hard without taking to themselves the benefit of some little credit for their exertions—and God knew they had little else to get—in the service of the Government. He had reason to believe, although he might be wrong, that no instructions were given by the Cabinet to the Minister of War until quite the end of February, if not the beginning of March. When the noble Earl took credit for being the most urgent to commence preparations for war, he would tell him that these preparations should have been made in November or December last; and instead of taking credit for finishing off some gunboats in an incredibly small number of days or weeks, he should have had the fleets in the Baltic

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and the Black Sea supplied with them long previously, and if proper measures had been taken in time their armies would have been transported at half the cost, and suitable preparations would have been made to receive them on their landing. Looking at the general colour of affairs, it was impossible not to see that upon this subject there were very great differences and variations in the statements made. The language of the noble Earl the other night was not only inconsistent with that of the noble Earl the Secretary for Foreign Affairs, but last year, and in the early part of the present year, the whole tone of the noble Earl was not that taken by the Members of the Government in another place; and he would say that this had shaken the confidence of the country very much in the measures that had been taken. He must also mention what he thought was a matter, although of a personal nature, yet of the very greatest importance. The Government had found it necessary to strengthen its position by a new arrangement of the Cabinet; and the noble Duke who had previously held the seals of War and the Colonies recommended that his department should be divided and the efficiency of the administration thereby increased. Now, at least for the personal composition of the Cabinet the head of the Cabinet was responsible. He was sure the noble Duke who filled the situation of War Minister would feel that he was not guilty of the slightest personal disrespect in the observations he was about to make, and he had no doubt that in the discharge of the duties of his present office the noble Duke would exhibit the same powers and application, the same impartial uprightness, and the same sober and temperate judgment, which he had shown in other situations; but he must say that on such an occasion as that in which the nation was now placed, and upon which the noble Earl at the head of the Government had lately to act, no party favour, no favour to any section of a party, no personal favour to any man or set of men, ought to have weighed in the decision. He did not say that favour had weighed in the decision, but he did say that there was one man, and one man only, in this country, whom the voice of all parties in the country, and he believed all classes, pointed out as the proper and fitting man to be selected, and the best Minister of War to be found on either side of either House—he need hardly say

he meant Lord Palmerston—a nobleman to whom a rare conjunction of circumstances had granted a long experience in military administration, and at the same time of great knowledge of foreign affairs—aye, and even of foreign armies—beyond any man in this country. What his talent, and his power, and his vigour in the administration of different departments had been, he need not say; but he did say that when Lord Palmerston was retained at the Home Office—and the country had no reason to believe that any proposition had been made to him to undertake the post for which the whole country thought him the fittest—there was a neglect on the part of the Government of an opportunity for adding greatly to the strength and efficiency of the Cabinet and of organising the resources of the country. The Parliamentary position of the Government was one not only unprecedented, but one which he was sure must suggest the most serious reflections—he might say the gravest apprehensions—in the mind of any man who understood anything about the conduct of public affairs in this country and the working of our Constitution. Let their Lordships consider for a moment what that position was. The present House of Commons was elected about two years ago, in the midst of the heat of a party contest. He thought, in round numbers, the decidedly Conservative party returned to that Parliament was something a little short of 300 Members. The Liberal party, which had previously held office, returned about the same number. Those who were considered the followers of the late Sir Robert Peel amounted to between twenty and thirty. There were, besides, a certain number of Members who might be termed neutral. The result was that, by a combination of forces, the Conservative Government was overthrown, and the new Administration took office with the support of 320 or 330 Members; but there had been in the ranks of the supporters of the noble Earl opposite (the Earl of Derby) a very considerable number of persons who, although they might prefer his Government to any other, were ready to support any Government sufficiently Conservative to ensure the maintenance of the great institutions of the country, and who, therefore, were not indisposed to support the present Administration. Last year, therefore, the Government might be considered as at the head of a party of about 400 Members. But what was the state of things now?

They had seen that the Government had been unable to carry almost any one important measure this Session. That was a very serious consideration, and he would ask to what was that owing? Let him not be told that it was owing to the Reform Bill, and to the fact that there were no longer close boroughs in existence, which would enable a Minister to count his adherents beforehand. Since the passing of the Reform Bill there had been Governments of different parties and of different complexions, which had been as well able as any before the Reform Bill to exercise sufficient influence to enable them to carry on the business of the Crown in Parliament; and if the assertion were true as to the difficulty of managing a reformed Parliament, he would ask, how could any Minister, while he made such an excuse, if it were one, or such an assertion—how could any Minister make that assertion, and at the same time propose a further Reform Bill? He voted for the Reform Bill, and he maintained that it had had no such effect as to prevent the servants of the Crown from possessing a due influence in Parliament for the purpose of carrying such measures as the exigency of the time and the expediency of the case required. They could not look at the constitution of the House of Commons as affording any clue to this. Was the reason for this state of things to be found in the want of ability in the Members of the Government who sat in the other House? He need hardly say anything with regard to the reputation, the ability, and character of Lord John Russell, a statesman respected by all men, followed by many, than whom no one possessed greater practical Parliamentary tact and experience. Was he unaided upon the bench on which he sat? He had upon the one side Lord Palmerston, indisputably the most popular man with the country in either House of Parliament, and on the other side Mr. Gladstone, a most accomplished debater, undoubtedly the most acute logician in either House, whose power of reasoning had almost persuaded them the other day that black was white. The Government consisted of a combination of men eminent for administrative capacity, who were at the head of a great party, and who, besides that party, were supported by a great number of other, although, perhaps, less attached friends. How came it, then, that they were in the predicament he had described—for no one

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could deny that they had been defeated day after day, and obliged to withdraw measures they had proposed, so that, practically, the servants of the Crown could not carry on the business which they thought it desirable to carry. He attributed it fairly to the First Lord of the Treasury. The noble Earl had invited that discussion, and he (the Marquess of Clanricarde) would not shrink from it. He thought it had arisen because neither the Houses of Parliament nor the country had confidence in the noble Earl in the exigency and emergency in which they were at present placed. It was his firm belief that the country did not think that his councils had been salutary, either in averting war or in preparing to meet it in a manner becoming this country. The noble Earl said, and he believed truly, because in all he had said he made no attack upon his private character, and he hoped he had not said one word inconsistent with the perfect and sincere personal respect which he felt for him—the noble Earl had stated that he had been actuated now and always by a love of peace, and that his endeavours had been directed to preserve peace. He, however, must say that his endeavours were mal-directed for peace. He did not doubt the sincerity by which he had been impelled to make those efforts, but he thought that, as in former times, the noble Earl's connection with and influence in our Government had conduced to disorders and revolutions and troubles in Europe, so his counsels were at the present time the cause of our now being engaged in war. He had never altered the opinion he had expressed when these unhappy transactions were first debated, and he would say that if a proper and clear—he had almost said an honest—tone had been taken by the Government twelve or fifteen months ago, there never would have been a war. Every day proved that. How did the noble Earl talk about Turkey in former times? He spoke about the power of Russia in such a manner that he evidently thought it a hopeless case to defend Turkey, and that, as one noble Earl had said in that House, that country ought to be left to its fate. Having, then, the misfortune to attribute the present state of the Government, and the war, and the enormous and loose expenditure that had been entailed upon the country by its not having made preparations in time, to the noble Earl, he did not hesitate to say that he thought it was not to the advantage of the country

that he should continue to be the Minister, either to direct the war or to superintend the negotiations for peace, when peace might be attainable, of which he feared at present there was no great prospect. No doubt he might be told that, holding this opinion, it might be expected that he should have moved an Address to the Crown, or move directly for a vote of want of confidence in the noble Earl. That was usually the answer of Ministers when their conduct was criticised. He quite agreed that in this case it was an objection very difficult for him to answer. He knew he ought to make that Motion, and he would do so if he could see his way clearly afterwards; but in the humble position in which he stood he did not think it would be wise or advantageous in him to make such a Motion. Therefore, he had not expressed before what he had expressed to-night, but he had expressed his opinions to-night, because he thought he was called upon by the deliberate notice given by the noble Earl that he would revert to the year 1829, that he would explain his views with respect to the speech he had made with respect to the war, and, what was more important, with respect to the peace which might possibly be negotiated. Under these circumstances he had thought it his duty not to be so uncandid—not to be so timid—not to be so wanting in his duty, as to hesitate to say that he conscientiously believed that it was not for the advantage of this country that the noble Earl who claimed their confidence should continue to be the chief adviser of the British Crown.

LORD BEAUMONT said, he must express his admiration of the moral courage of the noble Earl (the Earl of Aberdeen), who, when he found that his speech was likely to be injurious to the cause in hand, took the first opportunity of explaining—though some persons might think it a humiliating position for a Prime Minister to explain—the language he had used, going out of his way to create the opportunity for so doing. He, therefore, in his remarks should avoid everything which partook of a personal character. But he was bound to say, though he considered the amended speech much better than the original, and though he confessed it had removed many painful impressions which the first speech had created, yet still he felt, from his recollection of certain passages in that speech connected with other events which had taken place elsewhere,

that altogether a more satisfactory answer might have been given to what had been said on the subject out of doors. The reason for saying that was, that in the course of his observations the noble Earl made some remarks which conveyed to him the impression that what was stated and repeated out of doors had some truth in it. He seldom placed much reliance on what was stated in the public press, and especially in the paper to which he was about to allude, nor should he have thought of alluding to it if the noble Earl had not himself given some importance to that paper by making quotations from it on a former occasion. The journal in question was supposed to represent the opinions, not of the noble Earl at the head of the Government, but of the noble Earl opposite (the Earl of Derby). In this paper—the *Press*—he found the following statement—

“His Highness Prince Metternich, at the special and personal request of His Imperial Majesty the Emperor of Austria, has embodied in a State paper his view of the arrangements which, in the present condition of affairs, may conduce to ‘a just and honourable peace.’ We have reason to believe that these views have been communicated, although not officially, to the Earl of Aberdeen; and that little doubt prevails, from previous communications that have taken place, that they will be substantially adopted by the English Minister.”

Connecting that paragraph with other articles of intelligence which he had seen in various journals, the general result seemed to have some bearing upon a passage in the speech which the noble Earl at the head of the Government made on Monday last. The noble Earl then said that the Court of Vienna was at present advised by Prince Metternich. Coupling all these circumstances together, he could not help thinking that some communication—perhaps of a non-official character—of the terms upon which, in the opinion of Austria, Russia would now be disposed to treat for peace, had been made to our Government. If there was any ground for the assertion in this paper, and if the noble Earl knew, as he stated, Prince Metternich was guiding the councils of Austria, he then considered there was serious cause for alarm that this country might be already compromised by some act of its Minister, and that, however great the defeat sustained by Russia at the hands of the Turks, the peace to which they would have to look forward would not be of that character which this country was entitled to expect. He hoped, before the debate closed, the noble Earl would give some

further explanation as to that passage in his speech. With regard to what the noble Earl had said in respect to the Treaty of Adrianople and the history of that period, he owned, when he heard the statement of the noble Earl the other night, he was astonished at what he believed to be the noble Earl's misapprehension of the position of the parties at the time, and what appeared to him to be an incorrect statement of facts. He certainly did not understand the noble Earl to say that the Treaty of Adrianople gave no territorial accession to Russia, or at least none greater than she was entitled under the circumstances to demand. With regard to territorial accession, they knew that in Europe Russia obtained a most important, though not very extensive, addition by the Treaty of Adrianople; but in Asia, but for that accession of territory, the whole of Georgia and Azerbaijan would have been in the hands of the Turks. Russia obtained the greater part of an important pashalic by the possession of a fortress which commanded the high road, and was the key and passage to that portion of the Russian States; and it was only in consequence of the impregnable character of that fortress that, early in the commencement of the present war, the Turks did not take possession of Tiflis. Russia obtained also command of the Black Sea, and was able to establish stations by which to maintain troops, and to carry on a bloody struggle with the independent inhabitants of Circassia. The noble Earl might lightly estimate those advantages, but he was surprised that, under the circumstances in which the facts really stood, he should consider Russia made no better terms than in her position she was entitled to expect, because the noble Earl must know, upon various Russian authorities, that at the moment the Treaty of Adrianople peace was everything to Russia, that a fortnight's delay would not have left a single Russian alive south of the Balkan, and that the campaign must then have been recommenced. He thought opinions coming from the noble Earl which tended to lower the character of the Turks, and at the same time to raise the character of the Russians for moderation and honourable conduct in moments of triumph, were calculated to injure the cause of peace. The impression made upon the country by the noble Earl's former speech was most unfortunate; but he trusted the declarations of the noble Earl that even-

*Lord Beaumont*

ing would do away these unfavourable impressions, and that the noble Earl, having adopted a new and improved course, would pursue it with as much warmth as he had apparently pursued the previous one. He would refrain from any remarks on the personal conduct of the noble Earl, as he rose merely to draw his attention to a point upon which he hoped to hear some explanation.

THE EARL OF ABERDEEN: The noble Baron has addressed a question to me, which I am perfectly ready to answer, and I hope to be able to answer satisfactorily. I observed the paragraph in the paper which he has quoted, and I admired its ingenuity, because, my former acquaintance and friendship with Prince Metternich having been known, it was a very good notion to throw out the idea that I was engaged in negotiations with him in the sense which was endeavoured to be implied by the writer of that article. Therefore I thought it very ingenious. But I can only say this—that although the Emperor of Austria may have consulted an old and valued servant—and I hope he may have consulted him—yet whether he has or not, I am perfectly ignorant. My noble and learned Friend (Lord Lyndhurst) mentioned Prince Metternich the other night with praise, and I took up the same strain, and having seen it reported somewhere—in some newspaper I believe—that the Emperor was about to take the advice of Prince Metternich, I expressed a hope that that statement was true. I hope that the paragraph referred to by the noble Baron is in that respect correct, but whether it be so or not I cannot say. All I know is, as far as I am concerned there is just the same amount of truth in it as in all the other imputations against me, which I have the happiness of seeing day after day—that is to say, that there is not a syllable of truth in it from beginning to end. It so happens that since I have been in office, intimate as I formerly was with Prince Metternich, neither directly nor indirectly have I had any communication with him for the last year and a half until a few days ago, when a lady friend of mine and his told me she was writing to Prince Metternich, and asked me whether I had anything to say to him, and I said, "Pray make my best remembrances to him."

LORD BROUGHAM said, he did not wish to enter into a discussion of the great number of subjects which had been alluded to in the course of the debate. The noble Marquess would forgive, and he was sure

the House would pardon him if he declined entering upon the very comprehensive field of inquiry which he had opened; but he wished to revert to two words in the noble Marquess's very able and eloquent speech. The noble Marquess had applied the words "retracted" and "explained away," to the speech which his noble Friend at the head of the Government had that evening made in explanation of one he had made on Monday last. He (Lord Brougham) certainly had listened to the former speech of his noble Friend with that attention which the importance of the subject and his high position demanded, and he had also listened with equal attention to the speech which the noble Earl had just made. He was not prepared to say that in the statements of the noble Earl that evening there had been anything said which could be called either retracting or explaining away anything in the former speech which had been so greatly misapprehended and misrepresented. He certainly felt highly satisfied with the speech of that evening, not on account of the details into which it entered, but more especially on account of that with which he began, and that with which the noble Earl had concluded, avowing that the noble Earl the Secretary of State for Foreign Affairs had truly spoken his sentiments on the occasion, and that after all the pains which he had taken—and for which their Lordships and the country ought to feel grateful—to avoid the necessity of war, yet that, once entered upon the contest, it should be no fault of his that it was not conducted with perfect determination and vigour. As for what the noble Earl had said of the Treaty of Adrianople, he purposely declined going into that question, except simply to state that he thought the noble Earl had not, with his usual acuteness, perceived the very great difference between the present state of things and those which existed when the production of this despatch was first refused. It was first asked for in February—it was granted towards the end of June; and in the interval there had arisen the unhappy circumstance that we were at war with the Emperor Nicholas. The production of a despatch containing expressions likely to cause irritation in the mind of a Sovereign with whom we were at peace would have been most injudicious, even most hurtful, and the Government acted most prudently in resisting its publication:—but in the present state of things it could produce no

such evil. He entirely agreed with those who felt apprehensive of entering at the present moment—in the present posture of affairs, aye, and in the present posture of our foreign relations—into anything like a discussion, or minute examination—he would almost say of any discussion or examination at all—of what it would be expedient to lay down hereafter, when the time for negotiation should happily arrive, as the basis of that negotiation. All must depend upon the state of affairs at that time; and it would be a monstrous and injurious folly, fraught with serious inconvenience and mischief, if they were now to discuss hypothetically what might or might not be fit terms to accept. I cannot, however, avoid expressing my admiration of the heroic and successful efforts of the Ottoman forces. It was of incalculable importance that, by the blessing of Providence and the marvellous efforts of the Ottoman armies, the successes which had been achieved had been effected by the Turks themselves, and before their allies had even time to interfere or give their aid by coming to their assistance. His apprehensions, he confessed, were for the period when he should hear that a movement had been made by the enemy for quitting the Principalities and to return to his own territory. He could not help fearing that there might arise embarrassment to us and to our ally France—that great embarrassment of Russia having probably made some concession to Austria, and Austria then calling upon us to enter into negotiations—of that he had more dread than of the war itself;—because, if we were drawn into negotiations, the long series of diplomatic acts and protocols might be continued, with all the resources of Russian diplomacy, dragging us, perhaps, through the whole summer and autumn, to the time when the Black Sea and the Baltic would be in very different circumstances from those in which they happily now were. He trusted that the opinion expressed the other night, and now repeated by the noble Earl, that the Western Powers were not committed by anything which had been done at Vienna or Berlin, would be shared by our great, magnanimous, and most honourable ally—France. He had no distrust of Austria—he should say nothing of Prussia; he had perfect confidence in the wisdom and sage councils of the advisers of the Emperor of Austria, and in the character of the young Emperor himself; but certainly

a proposition was supposed to have been made by Austria to the Czar which, if it were to lead to negotiations, it would be for the Western Powers to say whether they should bear a part in them or not, and if they were to bear a part in them, he trusted that a certain time—and that not a very long time—would be fixed, within which those negotiations must terminate or cease, and then the war be prosecuted with energy as before. It was out of the power of Her Majesty's Government, or of any one else, to prognosticate what would be the result of the present war. It must depend, not upon ourselves alone, but upon others. He did not mean the Eastern Powers, but our ally, France. This, however, he would venture to hope, that that perfect cordiality which happily had prevailed between this country and France up to the present time would still continue, and that they should go on together as they had gone on from the beginning until peace was obtained, coupled with guarantees against the repetition, at a more opportune moment, of conduct which all must condemn. Those guarantees would, he trusted, be such as should afford security against future aggression, and of such a nature as should entitle us to call the result of our negotiations and of our campaign by the name of "peace," for without such guarantee it would only be a semblance of peace, or, at best, little better than an armed truce.

On Question, *Resolved* in the *Affirmative*.

House adjourned till To-morrow.

## HOUSE OF COMMONS,

*Monday, June 26, 1854.*

MINUTES.] PUBLIC BILLS.—1° Indemnity; Linen, &c., Manufactures (Ireland); Insurance on Lives (Abatement of Income Tax) Continuance; Turnpike Acts Continuance (Ireland).  
2° General Board of Health; Youthful Offenders.  
3° Oxford University; Vice Admiralty Court (Mauritius); Portland, &c., Chapels; New Forest; Warwick Assizes; Registration of Bills of Sale.

### OXFORD UNIVERSITY BILL.

Bill read 3°.

On Motion of MR. PHINN, clauses added:—

"That from and after the passing of this Act, the court of the Vice Chancellor of Oxford shall in all matters of law be governed by the common and Statute law of the realm, and not by the rules of the civil law."

*Lord Brougham*

"That it shall be lawful for any three of the Judges of the superior courts to make such rules as they may deem fit for the regulation of the procedure of the said court; and that the said court shall proceed in all matters subject to the said rules in conformity with the mode of procedure established in the county courts."

On Motion of the CHANCELLOR of the EXCHEQUER, in Clause N, after "any emolument," the words "other than a fellowship or studentship" were inserted, and Clause *added*—

"Provided always, that all ordinances and regulations framed by the Commissioners, and objected to by two-thirds of the governing body or bodies of the college, school, or schools to which the same respectively relate, shall, in all cases where new ordinances and regulations shall not have been substituted under the provisions of this Act for such as shall have been so objected to, be embodied in a Report to be transmitted forthwith to one of Her Majesty's principal Secretaries of State, and laid before the two Houses of Parliament."

MR. HEYWOOD moved the following clause—

"From and after the first day of Michaelmas Term, 1854, it shall not be necessary for any person, upon taking the degree of Bachelor in Arts, Law, or Medicine, usually conferred by the said University of Oxford, to make or subscribe any declaration, or to take any oath, save the oath of allegiance, or an equivalent declaration of allegiance, any law or Statute to the contrary notwithstanding."

The hon. Member said, that taking the decision of the House on Thursday night last as a fair expression of its opinion, that a large majority were in favour of opening the matriculation in the University of Oxford to all classes, and that the approval of a majority of the House could not yet be obtained for the opening of the governing body in the University; he had, therefore, deemed it prudent to modify the clause, so as to make it more likely to meet with general approval, for it was his wish that the changes in the University of Oxford should be moulded in concurrence with the general feeling of the House of Commons, for he considered even such an alteration as the present one a great improvement upon the existing state of the University. He had, therefore, modified the clause, and it would now stand, that no person should be required to subscribe any declaration on taking the degree of bachelor of arts; so that students who objected to making declarations, by being allowed to take the degree of B.A., would have some definite object to study for. Students taking the B.A. degree were generally in the position of candidates for fellowships; but here the

Act of Uniformity, which required that all fellows of colleges should conform to the Liturgy of the Church of England, came into operation, so that, of the Dissenters admitted to the University, the Wesleyan Methodists would, perhaps, alone be able to profit by this clause so far as endowments were concerned, and, with regard to the great mass of Dissenting students, the only practical reward would be the B.A. degree. Still he was quite ready to avow that he considered the privilege which he proposed to confer by this clause was nothing more than an instalment of justice; and, therefore, if the House assented to the present Resolution, he would next Session move for a Select Committee to inquire generally into the subject, and into the nature of the distinctions between secular endowments and those that were purely ecclesiastical. The question was discussed before Parliament in 1772, and shortly after the University of Cambridge altered the old tests to a simple subscription of membership with the Church of England. There were, now, many Dissenters on the books of that University entitled to take a degree who had never been able to do so; and, although petitioned on the subject, the University had shown no disposition to assist them. The adoption of the system of tests almost seemed to have had for its object to ignore the laity, and these regulations in former years appear to have been to make Oxford altogether an ecclesiastical institution. It was highly improper that that great place of learning should take such a position;—the tests that existed there, for the degree of bachelor of arts particularly, were more stringent than in any other University in the world. So far from any great superiority of feeling with regard to religious matters resulting from this state of things, he believed that these tests and barriers had created a sentiment of conceit and pride in favour of their own opinions which was most injurious to the interests of true religion. At the present moment the students were obliged to learn the Thirty-nine Articles off by heart, and also the various Scripture proofs in support of those Articles, for their examination for the degree of bachelor of arts; and if the Resolution he now proposed were agreed to, he took it for granted that the Commissioners and the University authorities would effect some change in this respect. He hoped the example of the University of Dublin would be followed, and the degree

of bachelor of arts be opened to students of all religious denominations. A great step was taken by the House on a former night, when they determined on throwing open the outer door of the University;—it would be a still more important step if they followed that up by opening this first degree. The degree of bachelor of arts was the one which the University recognised as the successful termination of a young man's career. And all he now proposed was, that they should allow that degree to be conferred without any test, and that it should be left to the Commissioners and the University authorities to perfect the details which were necessary for the accomplishment of that object. In Oxford itself there were many persons ready and willing to welcome these classes of students, and he looked upon their admission to take degrees as a matter of safety to the Established Church itself, because he regarded that Church as an institution which ought to be in harmony with the other institutions of the country. Municipal and other offices were open to Dissenters without a test, and the Motion he now made was merely the application of the same principle which the Lord President adopted in 1828, when he advocated the repeal of the Test and Corporation Acts. The degree of bachelor of arts was properly a secular degree, and in former times it merely referred to lay subjects; it was only of late years that it had been connected with theology, the reason being that the divinity students were but ill-prepared for their examination before the bishop. He looked upon the University of Oxford as an institution which had been kept nursed and shut up like a hothouse for the Church, and he considered that letting in a little open air and fresh vitality would be greatly to its advantage. To allow students to take the degree of bachelor of arts in the usual manner would be merely carrying out the Resolution agreed to the other day, and upon that ground he begged to move the introduction of the clause of which he had given notice.

MR. MILNES GASKELL seconded the Motion. He had voted in favour of the first clause proposed by his hon. Friend the Member for North Lancashire the other night, under the influence of a feeling which he believed was shared by a great majority of the Members of that House—namely, that it was not just or fitting—he had almost said that it was a mockery—to call upon young men on their

first entrance at the University to subscribe thirty-nine theological propositions, on which it was not in the nature of things that they could have formed any mature opinion. He had voted in favour of the second clause proposed by his hon. Friend with great hesitation, and in opposition to the views of many Gentlemen for whom he entertained the highest respect. He confessed, however, that to his mind the argument had been irresistible, that if you asked young men to run the race of rivalry and competition at the Universities, the rewards of merit ought not to be withheld. There was one consideration which had been very much lost sight of in the course of these discussions, which appeared to him (Mr. Gaskell) to have an important bearing upon the subject, and which materially diminished any apprehension that he might entertain with respect to the practical consequences of this change. To hear some Gentlemen speak of religious teaching at the University, one would suppose that the academical authorities were themselves agreed as to what that teaching should be, and as to the construction that should be placed upon the Articles of the Church of England. But it was perfectly notorious that the direct contrary was the fact. Subscription to the Thirty-nine Articles, however desirable it might be, was a poor security for Churchmanship. It was impossible to forget the fact that during the last fifteen years the ablest and most powerful opponents of the Established Church had not been members of the dissenting body, but members of the Church of Rome, who had signed these articles at matriculation, and who had afterwards been engaged in tuition within the walls of their respective colleges. If they were to have tests then, what was really required was some stringent declaration from the teacher and not the pupil. *Quis custodiet ipsos custodes?* was the real question—the question most pressing for an answer at the University of Oxford. He (Mr. Gaskell) was by no means sure that the adoption of this measure would not produce a beneficial effect upon members of the Church of England, for he believed it would be the means of reconciling many differences which now prevailed, and concentrating many energies that were now dispersed and wasted. He also believed it would have the effect of bringing many Dissenters within the pale of the Established Church. It was im-

Mr. M. Gaskell

possible to listen to such speeches as those which had been addressed to the House during the present Session by the hon. Member for Tavistock (Mr. Byng), and by his hon. Friend the Member for Taunton (Sir J. Ramsden), who had spoken for the first time the other night with so much ability and good feeling, without perceiving that there were many Gentlemen in that House, ornaments to the Universities and faithful members of the Church of England, who were earnestly desirous that these restrictions should be removed. And so far from concurring in opinion with an hon. and learned Gentleman, the Member for the University of Cambridge (Mr. Wigram), he (Mr. Gaskell) might be permitted to say that he had rejoiced to hear the speech of the noble Lord the Member for Lynn (Lord Stanley), when he had come forward in a manner so worthy of the name he bore, and of the position he held, to give a frank and full expression to his views upon this subject. It was said that this was not the time to legislate, because the University was disposed to apply itself to the work of reform without the intervention of Parliament, and was not disinclined to consider in a fair and liberal spirit the practicability of these changes. He (Mr. Gaskell) at once admitted that that was a conclusive reason against the use of harsh or irritating language towards the University—against the adoption of a tone of taunt or menace—but it seemed to him that the present was the time of all others for a temperate declaration of opinion on the part of the representatives of the people, that this was a concession to public feeling which ought to be made, and an act of substantial justice which ought not to be deferred.

Clause brought up, and read 1<sup>o</sup>.

Motion made, and Question proposed, "That the said Clause be now read a Second Time."

Mr. NEWDEGATE said, he was one of those who had voted without the slightest hesitation for the retention of subscription to the Thirty-nine Articles, because he had subscribed those Articles himself. When he did so, he had been duly informed of the substance of what he signed. He signed them in the sense in which the University understood them, as the rudiments of the religion of the Church of England. Hon. Members spoke as if no one was prepared for matriculation, and as if these young men of sixteen, seventeen,

and eighteen years of age, were not aware of the religion they professed when they made subscription to the Articles; they seemed to lose sight of the fact that these young men had passed the age at which they were admitted by the right of confirmation to all the responsibilities of members of the Church of Christ according to the religion and forms of the Church of England. It was idle to condemn the requirement of subscription because there were disputes as to the meaning of the Thirty-nine Articles—he should like to know the fundamental religious truth that was not disputed. Why, if the hon. Member for Wenlock were to travel in Germany, he would not go far without hearing of the existence of a First Cause—the existence of God himself—disputed. The first proposition of the hon. Member (Mr. Heywood) had been agreed to by the House, and he (Mr. Newdegate) regretted its decision, but he understood the purport and meaning of that decision. It was this—that the University of Oxford, so far as the educational advantages which she proffered and conferred in all matters of secular import—in literature, in science, and in art—were concerned, should be open to persons who were not members of the Church of England. Well, if that was the determination of the House, it was a matter of very grave import; and he thought that everything which had happened proved how well founded was the intention of the Lord President to introduce this subject in a separate Bill, so that its relations might be fully weighed, and the House come to a calm, deliberate, and well-informed decision on the whole subject. The House also decided on Thursday night, that persons who were not members of the Church of England should not be admitted to the degree of master of arts, because that degree conveyed on their part a right to share in the government of the University. He rejoiced at that decision of the House as some mitigation of the evil involved in their first decision, because the University of Oxford had hitherto been closely connected with the Church of England, and he thought it was not too much to ask that, of three Universities, one should remain in connection with the national Church. According to the proportion of religious creeds and denominations existing in the country, that was not too much to ask. By the denominational returns of the Census recently published, and which was based upon answers which need not have been

given, and upon voluntary returns which need not have been made, it appeared that the members of the Church of England attending divine service on a particular Sunday amounted to one-third of the population engaged in public worship on that day. He did think, therefore, that of three English Universities it was not too much to leave one exclusively to the education of that one-third of the population, who not only professed to be members of the Church of England, but attended her service on the day named in the Census returns. To revert, however, to the proposition before the House. The clause before the House was simply the rejected proposal of Thursday last renewed, and the modification of the clause of which the hon. Member for Lancashire had just given notice, was, in principle, the same. The modification was the striking out of the proviso, and the proviso was merely an exception, which explained the stringency of the principle contained in the first part of the clause, and which principle was, that, for the sake of admitting Dissenters to them, the degrees conferred by the University of Oxford should no longer be the same thing that they had been. A master of arts of Oxford was well known for these 300 years to be a person who had passed the full course of University education, based as it was upon the religion of the Church of England—upon Christianity as embodied in the formularies, and according to the Articles of the Church of England—and who was also accomplished in certain other studies which were directed by the University. That, having been what constituted a master of arts, the bachelorship of arts was merely a step towards the attainment of the full honour and capacity of a master. The hon. Member for Lancashire did not now propose to admit those persons who dissented from the Church of England to the full honour, the masterships; but he proposed to let them attain the last step preceding the mastership—that was to say, that not having followed the course of education up to that point which had always been required, they were still admitted bachelors of arts on a footing of equality with those who had pursued the full course of study prescribed by the University. Now, let not the House confuse two matters. Let them not refuse that which constituted a bachelor of arts with this novel distinction intended for Dissenters. The Oxford degrees had always been accepted,

and acknowledged distinctions and guarantees for proficiency in certain studies, and for competency in teaching the doctrines of the Church of England. If they wished to constitute a new system of studies at the University, then why not also constitute a new distinction? By not doing so, they were merely creating confusion. He hoped the House would gravely consider—and they had not yet had the opportunity—how great was the change they were about to effect. This was but the first step—this was but the sharp end of the wedge introduced for the purpose of separating the University of Oxford from the Church of England. He objected to the clause because it involved a fallacy, and gave a new and partial interpretation to an old distinction, which created confusion, and was not necessary to effect the object of the promoters of this change, that object being to admit certain persons to a literary and scientific education and distinction, without religious teaching. If, then, the House determined upon having a new system of education in the University, he trusted they would appoint some new distinction in order to prevent confusion between those distinctions which had hitherto assumed the names of masterships and bachelorships of arts, and the practically new distinction they intended to create. He should vote against the clause.

LORD JOHN RUSSELL said, that no doubt the proposition had come upon the House somewhat suddenly—the hon. Member for North Lancashire (Mr. Heywood) said that it was only a quarter of an hour before the House met for public business that he determined upon the exact shape which his proposition should assume—still, he (Lord John Russell) thought it necessary that the House should come to some determination in pursuance of the clause which they agreed to the other night. The opinion of the Government was, that the two questions of the admission of Dissenters and the general government and conduct of the studies of the University should be kept distinct; but it was the opinion of the House that a clause should be introduced into this Bill for the admission of Dissenters. With regard to the merits of the question, he had never entertained the smallest doubt that the Universities of Oxford and Cambridge ought to be open to the Dissenters. It had always appeared to him to be right that persons who dissented from the Church of England should not be debarred from receiving those in-

*Mr. Newdegate*

structions in science, in art, and in literature, which were afforded by those institutions. At the same time he felt that the measure would be very incomplete if they only allowed those persons to run the race, and excluded them from the prize—if it allowed them to study at the University, and debarred them from all those marks of honour and distinction which were the usual accompaniments of success. He, therefore, regretted extremely, when the hon. Gentleman (Mr. Heywood) proposed his second clause the other night, that it was in such a shape that, when the House divided, it would have been most inconsistent on the part of the Government to have voted in its favour. The distinction which he (Lord John Russell) drew, when addressing the House on that occasion, was, that whilst they ought to enable Dissenters to enter the University, and to derive such honours and advantages as properly attached to the studies there engaged in, they were obliged by the very nature of the institution, as a teacher of the Church of England, to debar the Dissenters from the government of the University and all the offices that pertained to that government. He adhered to that distinction now; and he thought that if they meant to continue the University of Oxford as a teacher of the Church of England, according to the standard of the Church of England, they should enable her to give that teaching in such a manner as to be without confusion and without interruption. He could not, therefore, agree to the second clause proposed by his hon. Friend on a former night. But the hon. Member had now put the clause in an entirely new shape; and what it proposed was, that Dissenters should be permitted to take the degrees of bachelor of arts, law, or medicine, without any subscription save the oath of allegiance. During the short time allowed to him he had been looking to see how the law would stand if such a clause were adopted; and he found that by the Act of Uniformity there was a declaration established, which was afterwards repeated by the Act to which he referred the other day, namely, the 1 & 2 Will. & Mary. This declaration was in these words—"I, A. B., do declare that I will conform to the liturgy of the Church of England as it is now by law established." He found also that this declaration must be taken by all masters and other heads, fellows, chaplains, and tutors of or in any college or house of learning or hospital, and every professor

and reader in either of the Universities, at the period of their admission. It appeared to him, therefore, that a person could be admitted to the degree of bachelor of arts, law, or medicine, without having any right to succeed to or obtain a fellowship, or to have any part in the government of the University or of any college, unless he should subscribe the declaration he had just read. It was a further question which his hon. Friend (Mr. Heywood) had raised, whether or not there might not be other honours and emoluments that, without disorganising the University, might be thrown open to Dissenters and Roman Catholics; but that was a subsequent matter on which he did not now ask the judgment of the House. Considering the question before the House, in the short time he had had for that purpose, with his Colleagues near him, he had come to the opinion that, as they had adopted a clause legislating upon the subject, which applied to all persons who might matriculate at the University, it was desirable that some mark of honour should be allowed to Dissenters when they entered the University. The hon. Gentleman who had just spoken (Mr. Newdegate) said, "If that be your object, invent some new mark of honour to which Dissenters may be admitted;" but it seemed to him (Lord John Russell), on the contrary, that the object which the Legislature ought to pursue, was, that the same marks of distinction which were given for proficiency should be given to Dissenters and to members of the Church of England alike. He thought it would be invidious as well as inconvenient to propose any new mark which only persons who were not members of the Church of England should receive. Of course this provision, as well as the other, would be subjected in the other House of Parliament to any further examination which that House might think proper; but taking the clause as it appeared at the present moment, he should certainly be ready to vote for its adoption. He trusted the right hon. Member for Midhurst (Mr. Walpole) would be able to agree to the clause. If, however, the right hon. Gentleman stated that the House was taken by surprise by the proposition, and that he was not then ready to consider it, he (Lord John Russell) would not oppose a proposition for the adjournment of the question for a day or two. But he trusted the right hon. Gentleman would be able to give his opinion at once. At all events it was his (Lord

John Russell's) intention to support the clause.

SIR JOHN PAKINGTON said, he thought every word that had fallen from the noble Lord a strong reason against assenting to the clause at the present moment. He begged to remind the House of the extraordinary position in which they were then placed. He thought they had great reason to complain of the course which had been taken by the hon. Member for North Lancashire (Mr. Heywood). He by no means charged that hon. Gentleman with an intention to do anything that was unfair. The hon. Gentleman had always been very straightforward in his adherence to and advocacy of this question; and of course he (Sir J. Pakington) could easily understand that that portion of the House who had for years been willing—and were now willing—to admit Dissenters to the Universities, would give their consent to the minor proposition of the hon. Member. But having always felt an honest hesitation to admit Dissenters to the Universities, he (Sir J. Pakington) must protest, as a matter of Parliamentary practice, against being called on, as he was then literally, without an hour's notice, to give his assent to a change which, whether upon full deliberation they might think it advisable or not, must be admitted to be a change of a very grave and serious nature, and one that the House ought not to be required to debate or decide upon without full or fair notice. He thought the course of the hon. Gentleman was hardly justifiable by the rules of Parliament. On a former evening he submitted to the House two distinct clauses. By the first of these the practice of the University of Oxford was to be assimilated to the practice of the University of Cambridge, and upon that ground mainly he believed a very considerable majority decided in favour of the clause of the hon. Gentleman. The hon. Member then proposed a second clause of a totally different nature. By that clause he would have enabled Dissenters to become members of the governing body of the University; but the noble Lord and the Members of the Government voted against the proposition, and a large body of Gentlemen who were favourable to the first clause were adverse to the second, and it was accordingly thrown out. The matter having been decided, after full discussion, in a House of between 400 and 500 Members, it occurred to him that it was a question

of grave and serious import, whether it was a wise or legitimate course to revive the subject during the progress of the same Bill. The hon. Gentleman had, however, adopted a different view. He had put a clause on the paper to the same effect as the one which had been rejected by the House, and they were now called upon a second time to pronounce their decision respecting it. When he (Sir J. Pakington) took his seat that evening, he was informed by a right hon. Friend near him that the proposal the hon. Member had submitted to the House was totally different to that which he had placed on the paper; and if the division bell were then to ring, he believed that a very large proportion of Gentlemen would vote without knowing what was the real question upon which they were giving their decision. He appealed to the noble Lord, then, whether this was a proper course to take. The noble Lord himself said, he had had but a quarter of an hour's notice of the Motion, and that during that quarter of an hour he had been studying the law upon the subject. He (Sir J. Pakington) had not been able to do even that; and indeed the noble Lord had given them the results of his studies in terms which might well justify the House in not placing implicit confidence in his interpretation of the law. He did not mean to say that the proposition of the hon. Member was one to which he should not give his assent. Upon that point he withheld any declaration. He would not, however, give his assent to a proposal that had been brought before them absolutely without notice. He was by no means clear but that under this clause Dissenters could become the governing body of the colleges. He thought that the proposition was one which should be brought forward in a substantive way, and in the shape of a Bill in the next Session of Parliament. He would not now enter into the merits of the question, which had been submitted to them only upon five minutes' notice, but he would, under the circumstances, give to the proposition a decided negative.

Mr. DRUMMOND said, he was surprised that the right hon. Gentleman the Member for Droitwich was taken by surprise by the Motion now before them; because, if the question was not this—if the whole meaning of the Bill be not the introduction of Dissenters to the University—he confessed he did not know what the object of it was, from the first moment of

*Sir J. Pakington*

the introduction of the measure to the present. He had opposed the Oxford Commission himself because he had a great suspicion that it would have been unfairly constituted; but he confessed that his suspicion was agreeably disappointed, and that the inquiry had been conducted with the most perfect fairness. On the present occasion let the House inquire, why was this Bill brought forward at all? Was it not the universal opinion of all parties that the Universities were not in harmony with the present state of English society? Why were they not? They were so originally. What had happened? Had the Universities themselves changed? No. Well, then, who had changed? The state of society had changed. What was the meaning of the state of society? Had the members of the Church of England changed? No; but the mass of the people had ceased to be attached to the Church of England. That was the altered state of society. [*Cries of "No, no!"*] Did hon. Members say "No" to that statement? Very well, he would trouble the House with further proof. At the time of the Reformation there was but one Church. All the inhabitants of England were members of that one Church, and the Universities were adapted for this one Church. At the time of the Reformation they all split into many sects. Every one did something peculiar, and therefore heretical, for himself. Since then they had had the Union with Scotland and the Union with Ireland. And he said, and it was a matter which they could not contradict, that the majority of the Queen's subjects were not members of the Church of England. [*"Hear, hear!"*] Well, that was the fact denied ten minutes ago. Well, then, the Universities were established for the exclusive manufacture of the clergy of the Church of England; and the question was now, whether they were willing to make those Universities places of education for all classes of Her Majesty's subjects. The House had already said, "Yes." Why did they say so? Because the majority of Her Majesty's subjects were not members of the Church of England; and they must, therefore, alter the constitution of the Universities in such a way as to admit all those religious classes who were now prevented from entering them, to all the advantages which those Universities could confer. It was a monstrous hardship to the great majority of the people that they should be excluded. He would, however, on the present occa-

sion, content himself by stating a fact for the purpose of showing the gross injustice of this exclusion. He happened to be in the position of a trustee to a young man of small property, and was consulted by his widowed mother respecting his course of education. Now, he would show how this exclusive system of the University practically bears upon young boys whose parents were deceased. This young man was for seven years at King's College School, namely, from 1842 to 1849, and at every vacation he brought home with him certificates of exemplary conduct. This young gentleman obtained there various prizes, both for classical and mathematical scholarship, which he carried with him to the University of Oxford. When in Oxford, in 1849, he obtained the first open scholarship in his college, and in 1850 he obtained the junior mathematical University scholarship. He took his degree in 1852, and was so notoriously the first man in mathematics in his college, that the tutor advised him to pay more attention to the study of classics instead of mathematics. The young man did so, and the consequence was, that he took a first class in classics and did not take a first class in mathematics, though he was notoriously much stronger in the latter than the former. After having taken his degree, the head of his college refused to put down his name as a candidate for an open fellowship, because, he said, his father had been a Scotch Presbyterian minister, although the boy had subscribed to the Thirty-nine Articles, and had always attended the Church of England service. And now what was the consequence? Why, in order to support his mother and sister, he was obliged to take a little dirty school-master's office here in London, and to teach *musa* and *dominus* to little boys. Was it not, he asked, a disgrace to the head of the college to have so refused this young man? No doubt such a master would have granted much to some titled empty-headed thing, with a gold tassel in his cap. And he confounded the true aristocracy of the literary world with the aristocracy of the civil world. For that confusion he ought to be ashamed. He had always resisted the spurious feverish desire for universal schooling which was prevalent in this country, because it would, in his opinion, be productive of no national benefit, although it might be attended with some particular advantage; but when they had got a combination of the best literary

and religious education which Europe could produce, he confessed he was exceedingly anxious to open the doors of the Universities as widely as possible for the admission of every one; and if by any circumstances whatever some individuals were excluded, he was exceedingly anxious that that exclusion should come from themselves, or at least from circumstances over which that House could exercise no control. Now he had a great mistrust for the expression that he continually heard falling from hon. Members—namely, that this proposition would introduce fresh blood, as it was called, into the studies of the University; and he had read with infinite disgust, not very long ago, some speeches made by some who called themselves political leaders—who thought that one column of the *Times*' newspaper was worth more study than all that Thucydides ever wrote—he suspected that the meaning attached to this expression of the infusion of fresh blood meant the infusion of German theology. He trusted that nothing would ever induce the Universities to depart from their present system of education. They all knew that that education was divided into two parts, one literary and the other scientific. The literary part was conducted through the despised system of Thucydides. The young men were taught to study the earliest records of the human race in a language matchless for its richness, its vigour, and its expression. They were taught by this study that all things most valuable to know could only be had upon human testimony; that they might reject or receive it as they pleased, but that they could not correct it. One kind of education alone might make a man superstitious, the dupe of every designing knave who chose to impose upon him; and therefore to this system of education was most wisely added the study of the sciences, by which the mind of the student was led to know exactly the opposite course, for he there learned to trust nothing that he was told, to despise all authority, and to believe in nothing but that which he could prove himself. It was with the mind as it was with the body. A young man is taught to dance, but he was not expected to stand in the third position in the public streets. Every portion of the body should be equally exercised, and it was only in the same way that the mind could be properly exercised. But some hon. Members were afraid of admitting Dissenters to the Universities; and when they were told that

there would be no danger in admitting Dissenters, then they said—"Oh, but it will lead to the admission of Roman Catholics." Well, he heartily wished both Dissenters and Roman Catholics to be admitted; but he was sure that, though the Dissenters would enter the Universities, the Roman Catholics would not. They had been told by hon. Gentlemen of good authority in that House, that Roman Catholics would not come into the University, and he could bring still better authority to justify that conclusion, which was the answer of Bishop Gillies, the Roman Catholic Bishop of Edinburgh, when speaking of the Lord Advocate's Scotch Education Bill. Dr. Gillies said that nothing would ever induce him to submit the Roman Catholic youth to any education that was not carried forward by their priests, and he quoted several authorities to bear him out upon this subject, such as Dr. Lingard and others. Dr. Gillies alleged, as a reason, the perversion of facts by Protestants respecting not only those portions of history which had reference to Roman Catholics, but of the knowledge that was conveyed in such books as geographies, observing that in them he had seen Spain represented as a dark country and England as an enlightened one, whereas the truth was the reverse, in his opinion Spain being the country of enlightenment and England of darkness. He (Mr. Drummond) thought that there were many facts mentioned by Dr. Lingard in his History which the Roman Catholic priesthood would endeavour to suppress, as rather unpleasant truths—such as the massacre of St. Bartholomew, and other things. It was, therefore, plain that Roman Catholics were no more willing to avail themselves of the Universities than they were to give them the opportunity, and he thought no fear of danger need be entertained on that point.

Mr. NAPIER (who spoke amid some interruption) referred to the University of Dublin, in respect to which, before the Statute of 1793, Roman Catholics were allowed the full advantages of a good education; but they were not able to take degrees, in consequence of the impediments raised against them by the 2 *Eliz.*, which provided, amongst other things, that they should not be at liberty to take degrees until they had taken the oath of supremacy. Dr. Todd, upon this subject, stated that—

"Dissenters and Romanists were admitted to education in the Dublin University, by the free

*Mr. Drummond*

act of the college, long before there was any enactment compelling such admittance. At the present moment there was nothing to compel the heads of the University to admit Dissenters; but as the Irish Dissenters in general were of so modified a kind as not to object to the oath, they have been admitted to degrees without any questions asked. Many Roman Catholics were educated there before 1794, but as they would not take the oaths required by law, they could not be admitted to degrees. It is surprising how few, whether Romanists or Protestant Dissenters, availed themselves of the privileges of the University. Any student who, with the sanction of his parents, attested by his tutor, enters himself as having a religious scruple against conforming to the Church, whether he be a Protestant or a Roman Catholic Dissenter, is excused chapel duties. But all other students resident in the college, or in the city and suburbs, must attend. Practically, the number of Dissenters of either class is so small that this system does not much interfere with discipline. But there have been cases of students entering themselves falsely as Dissenters to escape certain duties."

Dr. Todd then goes on to say—

"With respect to the English Universities, it appears to me very desirable to admit Dissenters to education and to degrees, if it could be done without giving them a power of undermining the Church. In Oxford and Cambridge the M.A. degree gives a seat in Convocation or in Senate, and so confers power. I would not give Dissenters this, nor would I suffer them to be teachers, or office bearers of any kind; and I would not admit them to collegiate corporations. With these limitations I am an advocate for the admission of Dissenters to degrees."

The Statute of 1793 enabled the University to dispense with all oaths except the oath of allegiance and abjuration in the case of Roman Catholics taking degrees. The Statute was the 33 *Geo. III. c. 21*, sec. 13, and was intitled "An Act for the Relief of His Majesty's Popish Roman Catholic Subjects in Ireland." The following was the provision referred to—

"And whereas it may be expedient in case His Majesty, his heirs and successors, shall be pleased so to alter the Statutes of the College of the Holy and Undivided Trinity, near Dublin, and of the University of Dublin, as to enable persons professing the Roman Catholic religion to enter into or to take degrees in the said University, to remove any obstacle which now exists by Statute law; be it enacted, that from and after the 1st day of June, 1793, it shall not be necessary for any person, upon taking any of the degrees usually conferred by the said University, to make or subscribe any declaration, or to take any oath save the oaths of allegiance and abjuration, any law or Statute to the contrary notwithstanding."

Now, his (Mr. Napier's) opinion was, though he was desirous that the provisions of the English Universities should be made as wide and as liberal as possible,

that this question should not be determined by the legislation of Parliament, but should be left to the Universities themselves to settle. It was his conviction and belief, more especially at the present time, that the rude interference of Parliament now to force those provisions upon the University of Oxford was the most likely means of retarding and defeating the carrying out of that object which he confessed he had as much at heart as any one. The House was here touching upon the most sensitive point of the religious feelings of the University; and unless the authorities there were willing to assist Parliament in carrying out this object which they were now considering, their efforts would be in a great measure nugatory. He had abstained hitherto from taking part in those discussions, because he confessed he was not acquainted with the internal operations of the Universities. He, however, deprecated any interference of this nature with the University of Oxford. He thought they would be acting much wiser, and would much better aid the cause they were endeavouring to promote, by submitting this question to the decision of the University itself. The House ought to leave the governing body of the University under the action of gradual opinion, and endeavour, by the force of public opinion, well expressed, to convince them of the necessity of making a provision for other religious classes to partake of the general benefits of education, which were now confined to the one class. With regard to the present proposition, they ought to consider well what they were about to do. He admitted that the hon. Member for North Lancashire (Mr. Heywood) had adopted a safer course than what he had originally proposed. But the fact was this, they were beginning to lay a political siege to the University—they were filling the members of that University with apprehensions that this power now sought for, if granted, would be followed by further demands; and that siege after siege would be attempted until the very walls of the University should be dismantled. The proposition now before the House was one in the shape of a compromise. Now he (Mr. Napier) hated those compromises. Whatever they did, let them do it in a straightforward, manly manner. If they thought that the Dissenters were fully entitled to the power demanded for them, let the House grant it to them at once. He was convinced that the way to treat the Uni-

versity of Oxford was to leave this matter to themselves. "Do unto others as you would wish to be done by." If they, the Dissenters, had sole authority in the University, and wished to uphold a peculiar system of education, would they like Parliament to interfere and to endeavour to subvert the whole principle upon which they acted? The late Sir Robert Peel met the case boldly upon this principle—he said that the system of education pursued in the University must be leavened with the religion of the Established Church of the country. He had heard the noble Lord the President of the Council say the other night that this was not a time, nor was it politic or wise, to mix up this question with the present Bill. He (Mr. Napier) fully concurred in that opinion of the noble Lord. The only thing he disliked in the speech of the noble Lord was his threatening the University, by saying in effect, if they don't do so and so, you should make them do it. Now, he thought that that threat was undignified and uncalled for. He was of opinion that the interference of Parliament was the very last thing that should be resorted to in a case of this kind; and, so far from threatening the University, they ought to do everything in their power to encourage her to effect this change herself. He, however, submitted that it would be impossible to maintain the primary constitution of the University, if it were occupied by Dissenters generally. There might, no doubt, be some Dissenters admitted with the most perfect safety; but if the University were filled with Dissenters, her constitution must necessarily be subverted. The noble Lord seemed to insinuate that the will of the founders would best be carried out by the admission of Dissenters; but it was evident that it was the intention of the founders that those persons who were educated there should be members of the Church of England. But the noble Lord said that the Church of England at that time was the Catholic Church, and he spoke as if there was no other Church at that period. Why, the Church of England was just as much in existence before the Reformation as it was now. It was evidently the intention of the founders that the persons to be educated in the University should be educated as members of the Church of England—and, so far, the will of the founders has been observed. Let them take, for example, the founder of All Souls. If he were alive, he did not

think that he would have much sympathy with the doctrines of the Roman Catholic Church, for he was the most formidable antagonist of the See of Rome. The University was first bound to satisfy the requirements of the Church—the University being closely connected with the Church. Then the University was bound to extend its sphere of liberality as largely as it could do, consistently with the maintenance of its principles. But that should not be done by Parliament, but ought to be left to the University itself to be carried out. The House was giving it no opportunity of introducing new elements into its government. This was a mere party boon to the Dissenters, who have availed themselves of their position to put a pressure upon the Government, and of proposing a compromise by what was vulgarly called “splitting the difference,” and thereby securing a few stray voters by this modified proposition. He, for one, would say that he had deeply at heart the interests of the Universities; he wished to see them preserved in connection with the Church of England. He wished to see their government carried on in a friendly spirit, conferring their advantages largely and liberally on different classes. He thought, however, that that desirable object would be utterly retarded and destroyed by the interference of Parliament; and on those grounds, and with the very object of following out the analogy of the University of Dublin, and of enlarging the sphere of education, he would resist the present proposition.

SIR ERSKINE PERRY said, he was exceedingly thankful for the opportunity the House had thus afforded him (as a new Member) of expressing his opinion upon the question under consideration. Having spent many years in a distant country, he felt himself better enabled to discuss such questions in an impartial and unbiassed manner. Having been an attentive listener to the Oxford University debates, and all other questions that had been brought before the House during the last few weeks, he had been struck with one phenomenon which appeared to him to run through all their discussions—he meant the extent to which religious differences afforded the groundwork of so many of their debates. On one occasion he observed the Dissenters join the intolerant Church party to press forward an inquisitorial inquiry, which was obnoxious to a small portion of

—his fellow subjects, the Roman Catholics

*Mr. Napier*

of England; on another occasion, he found a majority of the House deciding on excluding a still smaller section of their fellow-countrymen, the Jews, from Parliament; and now the turn of the Dissenters had come, and a great party was exercising all its ingenuity, talent, and influence to exclude them from the walls of the University of Oxford, which one would have thought would have been glad to open its doors to all the subjects of the realm without distinction of party and creed. It shocked him extremely to witness this display of intolerant feeling in the nineteenth century which had taken place in England lately. He had left England fourteen years ago for a distant country, and then the country was divided into the two great hostile camps of Whigs and Tories; and on his return, when almost everybody called himself “Liberal,” and though there was no real division upon the broad questions of secular politics, yet it was startling, and also humiliating, to find that the character of the House of Commons was more intolerant in religion than the Government of any other portion of the civilised globe. The immediate question before the House was, whether Dissenters, including Roman Catholics, should be allowed to take bachelors’ degrees in the first University in the world. Yet it was admitted in one of the clauses of the Bill, and acknowledged also by the opponents of this measure, that the University was a national institution; that nearly 150,000*l.* a year was obtained by the Universities in direct taxation upon the people; and the sale of Bibles was another source of the revenue of Oxford to which the Dissenters contributed very largely. England was certainly remarkable for the manner in which everybody but the members of the Established Church was denied the rights and privileges that were extended in most other countries to all classes of the community. He would not refer to the case of America, but confine himself to Europe. Even in what were called the most bigoted States, no such exclusion existed. In Prussia the Universities were open to Catholics and Protestants indiscriminately; and the same might be said of the Scandinavian nations. The Catholic countries also admitted Protestants and Jews to their national seats of learning; France viewed all religious classes in the same light; and in Flanders, the most strictly Catholic country in Europe, Protestant and even Jewish professors were to be found holding the highest

chairs in the Universities. It was therefore extraordinary that Englishmen, who aspired to be the leaders of civilisation and to teach the nations how to live, should be found treating their fellow-subjects in a manner not much unlike the exclusive castes of India, who proscribed classes of their fellow-creatures as a pariah race, unworthy to live, to eat, or drink, or intermarry with them, or to enter the same schools. In a somewhat similar manner were the Dissenters treated by the Established Church and the governing authorities of this country. They were told by the right hon. Member who spoke last (Mr. Napier)—and he regretted that the same sentiment had come from the Treasury bench—that they ought to leave this matter to be dealt with by the University itself, and avoid any rude interference by Parliament with its proceedings. Now, whatever weight this argument might have had at the commencement of the debate, it had vanished into thin air by the progress of these discussions; for they had had the advantage of hearing what were the opinions on this question of the most enlightened Members of that House who belonged to the University of Oxford, among whom were the hon. Baronet the Member for the University (Sir W. Heathcote), the hon. and learned Member for Plymouth (Mr. Roundell Palmer), the right hon. Member for Midhurst (Mr. Walpole), and others. Those hon. Members had stated that they were opposed to the admission of Dissenters to the degrees and honours in the University; and when liberal-minded men had so strongly expressed their opinions on the subject in the House of Commons, what could they expect from the authorities of the University? He and those who advocated the introduction of this class thought the time was come when Parliament must speak out on the question. It was not a mere question of detail, but one of broad principle. The details might be safely left to the University to deal with them; and he was sure if that House pronounced loudly that the Dissenters should not be excluded from anything which Church of England men might attain to, the University would carry out with honesty and cordiality all that the law required. It had been argued with great ability by the right hon. Gentleman the Chancellor of the Exchequer on Friday night that, if Parliament enforced this clause against an unwilling University, it would be of no effect, because those who

were opposed to it on principle would have the task of carrying it out, and it would be in their power to thwart it whenever they chose; but he (Sir E. Perry) would give complete answer to that objection by saying that he had confidence in the good faith and honour of the distinguished men who govern the University, and that if Parliament agreed to the principle, the authorities would give it a fair chance and exert themselves to carry out the law of the land. He had heard with delight the observation of the noble Lord the President of the Council, that he embraced this clause in all its points, and that having pronounced on the first clause it would be a want of logic on their part not to follow it up to that conclusion, and he was sure the Liberal party of England would rally round the noble Lord, and by a majority settle the point so that the Dissenters of England should not be treated with any such harsh exclusion as they are now subject to. There was one argument which had been used by the right hon. Member for the University of Dublin, to which he begged to refer. His right hon. Friend had asked if the independent Members on that side of the House would be contented with this half proposition, or compromise, as he called it. He (Sir E. Perry) would say frankly, he was not satisfied. He thought it was most unjust that a Dissenter should be treated in any way distinct from individuals belonging to the Established Church. He admitted that the Dissenters might reasonably be excluded from dealing with any question relating to the Established Church; but in every University theology was only one of the faculties belonging to the body. It had no right to play the important part with which Gentlemen chose to invest it. The University of Oxford was not established to teach theology alone, but in order that all the arts and sciences should be taught there by the best professors that could be obtained. Therefore he should oppose all exclusions, except in regard to Church of England theology. He was for advancing to that point, and he should therefore support the Motion.

MR. SPEAKER then called the attention of the House to the Resolution of the 1st day of June—

"That on a clause being offered in the Committee on the Bill, or on the consideration of Report, or Third Reading of a Bill, Mr. Speaker or the Chairman do desire the Member to bring up the same, whereupon it shall be read a first time without Question put, but no clause shall

be offered on consideration of Report or Third Reading without notice."

The hon. Member's clause, as he had moved it, differed from the clause of which notice had been given; it had, in fact, been amended that very day. When an hon. Member wished to make a proposition it had been generally understood that one day ought to intervene between the giving of the notice and submitting the proposition to the House. According to the rule of the House, therefore, there had not been notice given of the clause.

MR. HEYWOOD asked whether he could amend the form of his notice, his proposition having been amended.

MR. SPEAKER said, that the hon. Member had made a material amendment in his clause since he had given notice. If all the Members of the House consented to accept it there could be no objection to propose it. But if one hon. Member objected, that notice would be insufficient. The proper course would be that the further proceedings with the Bill should be postponed to a particular day, and that the hon. Member should give a new notice.

MR. LABOUCHERE desired to know if it would be in the power of any other Member to move an Amendment on that clause without notice, if he should think it would be desirable for the House to adopt such Amendment; or whether the rule with respect to the alteration of a clause applied only to the Member who had given notice of it.

MR. SPEAKER considered it was perfectly clear, according to the rule of the House, that no Member could offer any clause to the House without giving due notice of it, consequently no clause could be read a second time unless notice was given of the proposition before it was offered to the House. The House reserved to itself the right of amending the clause after it was read a second time, but they were not yet arrived at that stage, nor could they arrive at it unless due notice was given of the clause according to the orders of the House.

LORD JOHN RUSSELL said, that in the present condition of the question the only course open to him was to propose the adjournment of further proceeding with the Bill until his hon. Friend had given due notice of his clause in the amended shape in which he wished to put it. He would therefore move that further proceeding with the Bill should be adjourned to Thursday; and he would ask the hon. Member for Aylesbury (Mr. Layard) to take the

*Mr. Speaker*

debate on the Motion of which he had given notice on the Friday instead of Thursday.

MR. WALPOLE said, that he believed there was a desire on the part of the House that the bars and impediments which prevented Dissenters from availing themselves of the educational advantages of Oxford should be removed. He thought the hon. Member for North Lancashire did not intend to propose an Amendment which would interfere with the government or the endowments of the University. [MR. HEYWOOD: Yes, with the government.] But all he wished to ascertain was, whether the hon. Gentleman intended to bring up the clause on Thursday in its present shape, or in any amended form. He (Mr. Walpole) asked the question because he thought they should endeavour to come as nearly as possible to an agreement on this subject, instead of entering into a long discussion.

MR. HEYWOOD was desirous to consult the feelings of the House on the clause, to frame it so as to represent the wishes of the majority. He was himself, however, satisfied with it as it stood. As regarded further amendment, there was one bachelorship which had been omitted, but he thought there would be no objection on any side to its inclusion—namely, the bachelorship of music. With the exception of that inserted he should leave the clause as it stood.

MR. SERJEANT SHEE said, there were very important Irish land Bills fixed for Thursday, and he hoped the noble Lord would not throw any impediment in their way.

LORD JOHN RUSSELL said, it was most important that the Bill before the House should be proceeded with as early as possible. He had thought it would be done with that evening, but he could not let it go beyond Thursday.

Motion and clause, by leave, *withdrawn*:—Further proceeding *adjourned* till Thursday.

#### PUBLIC REVENUE AND CONSOLIDATED FUND CHARGES BILL.

Order read for resuming Adjourned Debate on Amendment [19th June], proposed in Schedule A, to leave out the words "Salaries of Sheriffs and Sheriffs Substitute, per Act 16. & 17 Vict. c. 80. Retiring Allowances to the Sheriffs Substitute, under the Act 1 & 2 Vict. c. 119."

Question again proposed, 'That the words proposed to be left out stand part of the Schedule.'

*Debate resumed.*

THE CHANCELLOR OF THE EXCHEQUER said, there seemed to him no reason why there should be any prolonged discussion on the Amendment. The principle of salaries was a clear one. There was, however, another question behind it, respecting which several hon. Members had given notice of Amendments. The hon. Member for Antrim, for instance, proposed to strike out of Schedule B all salaries and allowances now chargeable in lieu of fees of office surrendered by the present holders; the hon. Member for the University of Dublin proposed to exclude from the operation of the Act all offices holden for life, or during good behaviour, and all offices the salaries of which were fixed by Statute and charged on the Consolidated Fund; while the hon. Member for Cork proposed to secure the rights of a number of present holders of offices. He did not perhaps agree in the views of all those Gentlemen, or admit that the title of an office-holder was in any way prejudiced by the voting of his salary; but, at the same time, he thought it had been the general practice of the Government and Parliament to rule every doubtful question of this kind in favour of the title of the office-holder. He did not, therefore, think it would be worth while to occupy the time of Parliament in debating a question of that sort, and he proposed to move a clause on the third reading of the Bill, which he hoped would substantially meet the views of different Gentlemen who had given notice of Amendments. The offices which involved the discharge of judicial functions properly so called, irrespective of present or future holders, would not be removed from the Consolidated Fund by the Bill, if they were now on the Consolidated Fund. As to offices that were not judicial, but held for life or during good behaviour, and the salaries of which were charged upon the Consolidated Fund, he proposed that they should remain on the Consolidated Fund during the incumbency of the present holders. That was a concession which would meet the objection at which mainly those Amendments were aimed, and he trusted it would be satisfactory to the Gentlemen who proposed to move these Amendments. They would postpone in some degree an important object of public policy, namely, bringing salaries of this description under the constant notice of Parliament, and that most important step could not be taken so long as they remained on the Consolidated Fund.

COLONEL DUNNE said, the hon. and learned Member for Youghall (Mr. I. Butt) not being competent to move the re-commitment of the Bill, as he had given notice, in consequence of having spoken on the debate, it devolved on him (Colonel Dunne) to do so. The object of the Motion was to leave out of the Bill all those offices which were judicial in Ireland; so that the holders might not be subjected annually to capricious objections in Parliament. A further object was to put in other names to those which were already in the schedules. The objection to the Bill as it stood was, that certain situations, not judicial, and certain salaries, had been capriciously left out of it. One of these was the office of Commissioner of the Board of Audit, and he (Colonel Dunne) could not see why, when the Board itself were included, the Commissioners' salaries should not be subjected to periodical revision by Parliament. Another office omitted was that of Paymaster of Civil Services in Ireland. There were also the Clerks of the Hanaper, of the Crown, and of the Peace. A large number of offices should be put into the Bill besides those included; and as the whole schedule required further consideration, he moved the re-commitment of the Bill.

MR. W. WILLIAMS was sorry the Chancellor of the Exchequer had given way on the Bill. A vast number of salaries in England and Ireland were dealt with by the Bill without a word of objection. All the objections came from Ireland, and he was not surprised, because he had witnessed on all occasions in that country a grasping desire to get hold of the public money. Only the Judges should be independent of the Crown and of Parliament, but the salaries of all other officers should be brought under the consideration of the House every year. The Chancellor of the Exchequer had, in his (Mr. Williams's) opinion, stultified the Bill by the course he had taken.

MR. V. SCULLY said, all that was desired was, that justice should be done to the Irish officials. He suggested that the clause should be so framed as to do injustice to no holder of office, whether for life, whether during pleasure, or whether by patent. All he said was, that the schedule did not carry out the principle which the right hon. Gentleman proposed to regard.

MR. GEORGE said, that the exemption of existing interests from the operation of this Bill would not reconcile him to the proposed insertion of many offices in the

schedules. He thought that no offices of a freehold character, or which were held during good behaviour, should be subjected to the uncertainty of an annual Vote in Parliament; but that the salaries of those holding them should, like the salaries of judicial officers, still remain charged upon the Consolidated Fund.

Motion, by leave, *withdrawn*.

Mr. I. BUTT moved, "That the Bill be recommitted." This Bill consisted of two parts—one transferring the salaries of certain officers from the Consolidated Fund, and rendering them subject to a vote of that House; and the other subjecting to a similar ordeal the salaries of the officers engaged in the collection of the revenue. Now, with respect to the latter part of the Bill, no objections had been raised; but there was considerable opposition to the former portion, and the changes which the Government had already made in the schedules showed that it still required much consideration and discussion. What he would propose, therefore, was, that the Bill should be divided into two portions. The one which was not objected to could then be immediately sent up to the House of Lords, through which it would be passed in a few days, because that House could not alter it without a breach of the privileges of the Commons; and the revenue Estimates, which were now waiting its passing, could then be at once brought before that House. They could then fully discuss the other and less unobjectionable part of the Bill.

Motion made and Question proposed, "That the Bill be recommitted."

THE CHANCELLOR OF THE EXCHEQUER said, that he had no doubt that the reasons urged by the hon. and learned Gentleman in favour of the recommitment of this Bill were entirely satisfactory to his mind; but nevertheless he (the Chancellor of the Exchequer) could not admit their validity. Indeed, he had never heard a Motion made which was less consistent either with the facts or the arguments by which it was supported. The great object of the hon. and learned Member, according to his own statement, was to avoid delay, and in order to attain that, he proposed to throw out a portion of a measure which had now reached so very advanced a stage in that House. The hon. and learned Member talked of the great objection of including two incongruous subjects in the same Bill; but he did not oppose it on that ground on the second reading, in Committee, or on the bringing up of the report. It was said

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that there must be further discussion, because the schedules had been altered two or three times. This statement, however, was quite inaccurate; the schedules had not been altered, although, no doubt, some modifications of detail had been made to meet the views of hon. Gentlemen who had raised objections; and yet, after the Government had evinced their anxiety to disarm this opposition, hon. Members came forward, and asked that the Bill should be recommitted, and the field of discussion opened afresh. He could not admit that there was any incongruity in the objects of the Bill. On the contrary, he should have thought that he was neglecting a public duty, if, when he was rearranging the charges for the collection of the revenue, he had not taken the same opportunity of also bringing the charges upon the Consolidation Fund under the annual revision of Parliament. Indeed, the importance of the Bill in relation to the former charges was but trifling in comparison with its value as regarded the latter; because the charges for the collection of the revenue had always been under the effective control of the Treasury, while those upon the Consolidated Fund were removed from the control either of the Treasury or of that House. The effect of that was seen in the existence of such cases as that referred to on a former occasion, when a person had continued to receive, until the present time, the salary for an office that was abolished in 1827. These were the kind of cases that induced him to think that the salaries of such offices should not be placed upon the Consolidated Fund. He had endeavoured, in regard to the details, to meet the objection of every hon. Member, in so far as he could without sacrificing the principle of the Bill. That principle was a very broad and plain one, and it was one from which he was sure the House would not flinch. The recommitment of the Bill would throw back to a serious extent that part of the Bill which he looked upon as practically the most important, and therefore he could by no means consent to such a proposition.

MR. NAPIER said, he had not the slightest wish to throw difficulties in the way of the measure, but he thought it was absolutely necessary that the Bill should be recommitted, in order that it might receive the full consideration to which, from its importance, it was entitled. After justifying the lateness of the opposition now offered to this measure, on the ground

that he and others were, until recently, unaware of its contents, and supposed it to refer simply to the charges incurred in the collection of the revenue, the right hon. Gentleman called the attention of the House to an instance of the injustice with which Ireland was dealt with by it. By this Bill it was actually proposed to place upon the Consolidated Fund the salaries of the taxing officers of Scotland, which were not now upon it; while it was proposed to remove the salaries of similar officers in Ireland, which were now secured, from that fund, and to subject them to the uncertainties of an annual Vote of that House. It was proposed to include in the operation of this Bill many patent offices, the salaries of which were fixed by Act of Parliament. Now, he thought that salaries which had been so fixed ought not to be changed by anything but another Act, and should not be placed at the mercy of a Resolution of one branch of the Legislature.

Mr. W. WILLIAMS opposed the Motion. The whole of the present opposition to the Bill had arisen from the Chancellor of the Exchequer having unfortunately yielded to the request of some hon. Members, that the Masters in Chancery might be withdrawn from the schedules. His acquiescence on that occasion had encouraged other claimants for various exemptions, and amongst these the Irish Members had certainly been the most unfortunate. He certainly could not see why they should object to the salaries of the Irish legal officers being placed under the revision of Parliament, for past experience of the manner in which the House had exercised its authority with respect to the official salaries which now came under its annual revision was quite sufficient to show that no one would object to them without good reason. And if there was good reason for objecting to them, he could not see why the Irish Members should wish to withdraw them from Parliamentary control.

Mr. GROGAN said, this Bill had been smuggled through the House in such haste that there had been no opportunity of calling attention to the case of the holders of Irish offices, who would be very unfairly dealt with under its provisions. An object which had hitherto been concealed now appeared to be really the most important that was aimed at—that of repealing several Acts of Parliament, by which the holders of these offices were placed on the

Consolidated Fund. He protested against the manner in which it was attempted to hurry the measure through, and hoped that his hon. Friend near him would press his proposition to a division.

Mr. G. A. HAMILTON should be sorry if the House went to a division on the supposition that this was only an Irish question. He thought it very objectionable that the salaries of revising barristers in England and Wales should be removed from the Consolidated Fund, and made the subject of an annual Vote of that House. Equally or more objectionable would it be to deal in this way with the clerks and other officers attached to the judicial establishments of Scotland. Another class was that of Irish officers holding their situations during good behaviour, who would have the same right to complain.

Mr. J. WILSON observed, that the principle of subjecting the salaries of officers held during good behaviour to an annual Vote was by no means new. It had already been acted upon in the case of the officers of that House, in conformity with an Act passed some time back; and if hon. Gentlemen would look at the Estimates for this year, they would find that some of their highest officers appeared upon them in this way. A great many concessions had already been made on the present Bill, and the present Motion seemed to show the inexpediency of ever making concessions.

Mr. V. SCULLY said, he did not think the Government had made any concession at all. He would wish to see the subject referred to a Select Committee, but meanwhile would give his support to the proposition of the hon. Member for Youghall.

Question put.

The House divided:—Ayes 53; Noes 90: Majority 37.

Another Amendment proposed, in Schedule B, to leave out the words “exclusive of the salaries of the Board.”

Question, “That the words proposed to be left out stand part of the Schedule,” put, and *agreed to*.

Bill to be read a third time on *Thursday*, at Twelve o'clock.

#### SUPPLY—NEW ZEALAND.

The Order of the Day having been moved for going into Committee of Supply,

Mr. ADDERLEY rose for the purpose of calling the attention of the House to the conduct of the late Governor of New Zea-

land, in delaying and partially frustrating the new constitution granted to that Colony. The hon. Member said, it was with very great reluctance he impeded the progress of the regular business of the House, even for a few minutes. If the circumstances he was about to relate had affected this country, he was sure there would be sympathy enough; but, as they concerned only a distant Colony, he was well aware that it was necessary for him to entreat the indulgence of the House while he detailed them. He was free to confess that several years' close study of colonial affairs had brought him to the deliberate conclusion, that it was absolutely impossible for any Imperial country to govern distant dependencies with justice. If any country could do so, it was England, for England had a love of freedom and a respect for the rights of citizenship; but, nevertheless, he found, that whoever might be Minister, by some sort of fatality he was sure to fall into the same regular course of tyranny and injustice towards the Colonies. The selfishness of human nature, rendered it hopeless that the right of distant fellow citizens should be guarded for them at home. During the last few years, it was true, our colonists had struggled into the recognition of their constitutional rights, and the right hon. Baronet the Member for Droitwich (Sir J. Pakington), during his tenure of office as Colonial Minister, had the merit of fully recognising those rights in the case of the inhabitants of New Zealand, and likewise of recommending Her Majesty to give up the disposal of the Crown lands to that Colony. In doing that, he had not only given them that which they had looked for, but he had added the grace of a voluntary favour from Her Majesty, which had increased the attachment of the Colony towards the Crown, and the confidence of our fellow-citizens in New Zealand towards this country. Now, that being the case, what should be said of the executive officer who had chosen to place himself in obstruction of the enjoyment of those constitutional rights—who had placed himself, with respect to the further favours promised in Her Majesty's way—and had arrogated to himself, by a bold assumption of power, the popularity which, if he had obeyed his instructions, would have belonged to his Sovereign? He would not occupy their time long in stating the circumstances which, he believed, justified him in saying that nothing less than this had been the conduct of Sir

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George Grey—Sir George Grey had been accustomed to autocratic rule in New Zealand—and that he had ably carried out, as he (Mr. Adderley) believed; but having been accustomed to the old tyrannical régime which was now being everywhere abolished, he had not only felt a repugnance towards the promised constitutional government, but had feared the censure of its constituents, and had resolved in his own mind to quit the Colony before that constitution came into full play. He would first show how he had contravened altogether the spirit of the Constitutional Act introduced by the right hon. Baronet the Member for Droitwich, and passed in 1852. The House would recollect that that Act provided that there should be both Provincial Councils and a General Assembly, but that the General Assembly should be the primary body, while the Provincial Councils were to be little more than mere municipalities discharging delegated local functions. He recollected this distinctly, because he had endeavoured, unsuccessfully, to get this order of things reversed. He had preferred the American precedents, which starting with local municipalities, grew up into central powers. But although the House had refused to concur with him in the view which he had taken at that time, Sir George Grey had taken upon himself to contravene the spirit of the Act by first allowing the Provincial Councils to come into play, while he had avoided altogether calling together the General Assembly, which Parliament had undoubtedly intended should have the foremost place. Let the House look for a moment at the dates, and they would see the animus with which the Governor had dealt with the new constitution. The Constitutional Act arrived in the Colony in December, 1852. The proclamation of that Act took place on the 17th of January, 1853, which was exactly six weeks after the arrival of the constitution—so that the Governor had taken the full limit of delay which the law allowed him in that first step. The writs for the election of members of the General Assembly were issued on the 17th of July, 1853, which was exactly six months after the Constitutional Act had been proclaimed; so that here again the full limit of delay had been taken advantage of by Sir George Grey; and finally Sir George Grey left the Colony on the 7th of January, 1854, up to which time no meeting of the General Assembly had been convened, although the writs had been returned. When the right hon. Gen-

tleman the Member for Droitwich (Sir John Pakington) put some questions upon this subject to the Under Secretary for the Colonies, and had addressed the House at considerable length upon it some few weeks ago, the first point to which he had alluded had been this delay, extending, as he had already pointed out, to the utmost limit which the law allowed. The answer of the hon. Gentleman the Under Secretary for the Colonies was—that the Governor had had full work to occupy him during the whole interval that had elapsed—that he had had a great deal more thrown upon him than usually devolved upon Colonial Governors, in the introduction of a new constitution—and that he (Mr. F. Peel) was only surprised that he had been able to get through it all, so as to be in a position to take the necessary formal steps within the time which the Act of Parliament prescribed. But how did this excuse tally with the facts? Suppose the summons for the meeting of the Assembly had been issued at the same time with the writs, so that the Assembly might have met contemporaneously with the return of the writs—that would have saved some time. But he would not put a hypothetical case. He would prove first out of the Governor's own mouth, and afterwards by the testimony of the colonists, who were competent witnesses of the fact, not only that it was possible, but that he himself had first expected that the Assembly would come together in one-half the time. When this constitution first went out, the Governor was himself interested in convening new Provincial Councils; he had then, for his own purpose, to make arrangements with respect to electoral districts, and polling places, and returning officers, and a great many other matters of detail connected with the conduct of the election; and yet, when he had all this to do, the time which he himself thought necessary for the return of the most distant county was not to exceed ninety days. When expedition was the object, ninety days were quite enough; but when the animus was delay, three times as long as that was scarcely sufficient for the purpose. The intervals in the one case were six months each; the intervals in the other case were six weeks; although when he took the shorter time he would have had some excuse for delay, because at that time he had really some original work to do, and some first arrangements to make—electoral districts to mark out, and polling places to

assign; whereas, in the other case, the electoral districts had been formed, and the polling places assigned, and the work was ready to his hand. The Duke of Newcastle, in a despatch dated the 8th of March, 1853, had referred to these arrangements made under the provisions of the local Act, and had expressed a hope that, although those arrangements would of course be superseded by the Act of the Imperial Parliament, “they might still be rendered in some measure subservient to the purposes of the more recent enactment.” But now, having made good his statement out of the Governor's own mouth, he would see what the colonists said—because, although the hon. Gentleman opposite, who had now discharged with great ability for some years the duties of his present office, was entitled to the highest respect, it was not inconsistent with that respect to say that the colonists themselves were still better acquainted with the circumstances of their own country. Four of the Provincial Councils—those of Nelson, Wellington, Canterbury, and Otago—had sent in memorials upon this subject, but he would refer to two of them only. The Provincial Council of Wellington, with their Speaker at their head, had addressed a memorial to Her Majesty, dated January 6, 1854, in which, with the kindest feelings towards the Governor, they stated that the Governor might have had good reasons for the course he had pursued, but that those reasons were utterly unknown to them, and that they were all, without exception, unable to discover any valid cause for the delay which had occurred in bringing the constitution into work; while the Provincial Council of Nelson took upon themselves to state, in a resolution, that the delay was not justified by any reasons which could have prevented the meeting of the Assembly. Both the colonists, therefore, and the Governor, had proved his point; but he would proceed to prove by a still more significant act of the Governor himself, what his own expectations were. He had felt some time before that there must be some delay in calling the Assembly together, and that there must be some appropriation of revenue in the meantime. The Act gave the power of appropriating revenue in the meantime to the old Legislative Council; and it was the Governor's own act to call that Council together again, and to obtain an appropriation of revenue up to the 30th of September, 1853, that being the time at which, accord-

ing to his own words, the new Legislature would be ready to meet. There could be no doubt, at all events, as to what were the intentions of the framers of the Act; for Sir John Pakington, in his despatch transmitting it to the Colony, had instructed Sir George Grey to use all possible expedition in putting its provisions in force; and, by way of showing what expedition he intended him to use, he had told him to select at once the nominee portion of the intended General Assembly without waiting for further instructions from home. What would the House say when he stated that thirteen months after these instructions had been received by the Governor, not a single nomination had been made? He had, further, reason to believe—although, as it was not in the blue books, he could not quote it—that the opinion of the right hon. Baronet was fully sympathised with by his successor, and that that successor had given Sir George Grey to understand that he was not to leave the Colony until he had met the General Assembly. He had good grounds for expressing this belief; but if the hon. Gentleman opposite contradicted it, he had no document to prove it. Having made out, as he believed, the statement with which he had started, that the animus of the Governor had been delay, and that he had determined that the new constitution should not come into play until he had left the Colony, he would proceed to refer to one or two distinctly illegal acts which had been committed while this resolution of delay was being carried out. The first of these illegal acts was his continuing to appropriate money after the 30th of September, after the old Council, for the last time convened, had finally separated, without having any authorised body by whom this could legally be done. When this question was last before the House, the hon. Gentleman opposite had denied that Sir George Grey had appropriated a single shilling. He said that he had merely handed over the surplus of revenues to the Provincial Councils. But even supposing such to have been the case, by what right or authority did he hand such surplus over? Sir George Grey had no more right to hand that surplus over to the Provincial Councils than he had to appropriate it himself, or to spend it in his own family. The Act was clear and distinct upon the point. The power of appropriation was vested, before the General Assembly was formed, in the old Legislative Council, and was

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to be transferred to that Assembly as soon as it should be called into existence; and it was only after this power of appropriation had been exercised by the General Assembly that any surplus which might remain was to be handed over to the Provincial Councils. The object of this provision, no doubt, was, that the General Assembly should be called as soon as possible into play. But the next point to which he would allude struck him still more strongly as a gross violation of the law, tending not only to deprive the colonists of New Zealand of their rights, but to deprive the Queen of the grace of a gratuitous favour, while the Governor had grasped to himself, or to his office, the popularity which belonged to Her Majesty. The disposal of the Crown lands was given by the Act to the colonists, and at the close of the clause by which this gift was conferred there was a provision introduced, which was absolutely necessary under the circumstances, and which gave to the Governor an *ad interim* power of doing anything that might be necessary in reference to the disposal of those lands, until the General Assembly should come into full play. Sir George Grey had taken advantage of this *ad interim* power to issue an elaborate series of regulations, completely revolutionising the whole system of land sales in the Colony. He professed to have issued those regulations in conformity with the powers conferred upon him by the Act; but his was certainly the freest translation of an Act of Parliament that he had ever seen. And let it be borne in mind that this was the question of greatest interest in the Colony—that it was the very first question which would have been submitted to the General Assembly—yet the Governor, reckless of the consequences, whether to the colonists or to Her Majesty, had by his own act forestalled irrevocably any expression of their own opinion upon the subject—had so taken it altogether for ever out of their hands, and had practically rendered nugatory and a mockery this great boon, and this singular favour which Her Majesty had granted to New Zealand. He called upon the right hon. Member for Droitwich to defend his own Act, which he considered could only be done if a proper construction were put upon the right hon. Baronet's letter of July, 1852, in reference to this question, by supporting the view of the question which he (Mr. Adderley) was then taking. But he had reserved the most monstrous act

of the Governor for the last of his list. The Supreme Court of the Colony had been appealed to upon the subject of this last assumption of power, and decided against the legality of the Governor's acts, and had granted an injunction, which, although its legal operation was confined to Wellington alone, had in reality a much more general application, extending, in fact, to all the settlements established by the New Zealand Company. Sir George Grey had not scrupled to set aside the injunction of the Supreme Court in the Colony, to hold up his highest judge to defiance and contempt, and had proceeded with the illegal land sales. He had promised that he would not go into any other points, and he would only further trespass on the House to say that he did not think a Governor who had so acted, who had shown such an animus towards a liberal constitution, was fit to be promoted from New Zealand to the Cape, where the constitution was more liberal still, and where, if possible, more discretion was required even than in the Colony of New Zealand itself. In conclusion, and in support of the views he had taken of the conduct of Sir George Grey in the government of the Colony, he would refer to the words of the Duke of Newcastle himself, which he would quote, because they were of greater weight than any he could offer to the House. They alluded to another act of Sir George Grey, upon which he would not enter further than to say, that whereas constitutional Acts distinctly gave the New Zealand Company a certain proportion of the proceeds of the land sales, the Governor of New Zealand had taken on himself, contrary to the provisions of the Act of Parliament, to withhold that payment. The Duke of Newcastle, on the 30th of December, 1853, wrote to him, expressing his regret that he had determined not to pay, in obedience to his (the Duke of Newcastle's) commands.

"I cannot discern," he said, "either in your present despatch, or in any former despatch which you have addressed to me on the subject, any reason to justify you in adopting the resolution thus directly to disobey the orders of Her Majesty's Government. Whatever the justice of the arrangement, it has the force of law. To refuse to act upon it, therefore, is not merely to disobey the orders of the superior executive authority, but it is to resist the law itself; and it is but too easy to foresee the advantage which may be taken by persons eager to find excuses for a similar course, on future occasions, of the step thus deliberately taken by the Governor."

Was there ever a severer censure pro-

nounced by a Colonial Minister on a Colonial Governor than that which he had now read—telling him, in fact, that he had disobeyed, without excuse, the orders of his superiors, and had set the most mischievous example to others? He would only ask the House whether the officer who had so acted as to have brought himself under that censure was one who ought to have been continued in his office, and still more, whether he ought to have been selected for immediate promotion?

Mr. FREDERICK PEEL would not reply to the prefatory observations of the hon. Gentleman's speech; and, being anxious not unnecessarily to take up the time of the House, and delay the entering upon the question of Supply, would confine himself solely to what the hon. Member had brought personally to reflect upon the conduct of Governor Sir George Grey. The hon. Member had, of course, used his own discretion in reviving a subject which had already been fully discussed and disposed of by the House; and knowing that the answer which he had then made was in exact and scrupulous conformity with the facts—believing that that answer contained a complete vindication of Governor Grey's proceedings, and not finding anything new in the hon. Gentleman's speech, except the very last point to which he had alluded, he did not think that any sufficient reason had been afforded for delaying the Committee of Supply. He must say he had been astonished to hear Sir George Grey represented as having long been accustomed to exercise undivided rule, and become wedded to autocratic power, and his having consequently endeavoured to prevent the colonists of New Zealand from getting the benefit of free institutions. Was the hon. Gentleman not aware that the Bill which was passed through Parliament to give them free institutions was framed, except in one particular, by Governor Grey himself; and that it was to him that the colonists were indebted for the constitution which Parliament had granted them? But the hon. Gentleman had told them that, when Parliament conceded the boon of the constitution, Governor Grey had stood in the way of their receiving it, and was the principal person who prevented the Colony deriving from it those advantages which Parliament desired to extend to it; and he had endeavoured to make out his case by stating that he had postponed to the latest period that he possibly could, without directly vio-

lating the law, the several steps which he was required to take towards bringing the constitution into operation. He did not proclaim the constitution, it was said, until the last day of the six weeks that were allowed him, nor issue the writs until the last day of the prescribed period of six months; and he had evidently formed a fixed intention to leave the Colony without having convened the General Assembly. But the hon. Gentleman seemed to have forgotten, by the line of argument he had adopted, that when Parliament gave the Governor of a Colony a certain discretion with respect to time, and the Governor proceeded within the time limited by Parliament to do what was required of him, it was hardly fair to question the exercise of his discretion, or to ask why he had not proceeded on this day rather than on that. The constitution of New Zealand had been brought into operation in the Colony as soon as Parliament had intended it should be; and it was impossible that the Governor could proceed with the writs with greater speed than he had done, consistently with due consideration of the variety of parties and interests in the Colony. He had had thrown upon him the determination of all those matters of detail which were usually left, under similar circumstances, to a representative body in the Colony, and the whole responsibility of making the necessary arrangements devolved upon him alone. He did not think it was possible for Sir George Grey to determine such points as the boundaries of provinces and of electoral districts, the number of members of the Provincial Councils and of the General Assembly—the apportionment of those members fairly among the different provinces, the determination of the manner in which the electors were to register their votes, and in which those votes were to be revised—where were to be the polling places, and who were to be the returning officers, in a less time than he had taken to do it. He had completed them within about two months; but it took about three months more before the electoral roll was finally completed, and as soon as he knew who the electors were to be, he issued the writs for the elections. It was impossible to have the elections until the electors were known. The hon. Gentleman had charged Governor Grey with having delayed the summoning the Assembly until the writs had been returned, and stated that he might have issued the summons together with the

*Mr. F. Peel*

writs. By the Act he was obliged to wait until in possession of the returns to the writs; but as soon as he was in possession of those returns in a complete form he took measures to convene the Assembly. The last return from the most distant settlement, which was 800 miles from the capital, was not received until about seven days before he quitted the Colony. He might, indeed, have convened the Assembly within these few days; but as he was about to transfer the government to a successor, he felt that the responsibility of that measure ought to be left to the officer who would have to preside over its deliberations. This was, in his (Mr. F. Peel's) opinion, a complete answer to the hon. Gentleman's complaint of Sir George Grey's delay in bringing the constitution into operation. The hon. Gentleman had charged Sir G. Grey with having allowed that portion of the Act which regarded the Provincial Councils to take effect while he postponed the meeting of the General Assembly. The hon. Gentleman should remember that the Provincial Councils were summoned by the superintendents of the provinces, who were on the spot and had no difficulties to encounter; but it was impossible for the Governor to convene the General Assembly sooner. Many members of the Provincial Councils had been also elected to the General Assembly, and they could not attend the Provincial Councils and the General Assembly at the same time. The hon. Gentleman said that the Governor had postponed the choice of the nominee members for thirteen months; but till the elections were over it was impossible to make any choice, because many of the persons he would have nominated might have been elected. With respect to the appropriation of the revenue, he (Mr. F. Peel) should repeat his statement that Sir George Grey had not of his own authority appropriated any revenue—he had followed the direction of the Constitution Act, which provided that any surplus revenue not required by the General Assembly should be placed at the disposal of the Provincial Councils—Governor Grey found that about one-third of the revenue would be required for the purposes of the general government, and he placed the remainder at the disposal of the Councils, who expended it in their different provinces. He (Mr. F. Peel) differed entirely from the hon. Gentleman with respect to Sir George Grey's conduct on the land question. Parliament had given the Legislature of New Zealand

power to dispose of the waste lands of the Crown in that Colony; but till the meeting of the General Assembly it continued the powers vested in the Crown and delegated by it to the Governor. Immediately after the Act passed the then Secretary for the Colonies (Sir John Pakington) conferred the fullest powers on the Governor, and in subsequent despatches urged him to exercise his powers and bring the question to a settlement before the new Assembly met. The hon. Gentleman had referred to some proceedings in the Supreme Court; but he (Mr. F. Peel) was not aware that any injunction to stay the sale of land according to the Governor's proclamation had ever been issued. Sir George Grey was unable to give him on that point that full information that might have been desirable, as he had been absent from Wellington at the time of the proceeding. He (Mr. F. Peel) believed, however, that if any injunction had been issued, it was confined to the land in the immediate district round Wellington; it had no reference to the waste lands of the Crown in New Zealand generally, and did not proceed beyond prohibiting the final alienation of it. The reason assigned for the abandonment of the proceedings could not be correct; for no one who knew Sir George Grey would believe that he was capable of suspending a judicial officer because he had acted to the best of his judgment in the discharge of his duty. Lastly, the hon. Gentleman had impugned Sir George Grey's promotion to the governorship of the Cape. That was one of the last appointments made by the Duke of Newcastle before he quitted the Colonial Office, and no appointment was ever calculated to lead to consequences more honourable to the officer who obtained it, or more advantageous to the country. When Sir George Grey first went to New Zealand, the native question was most embarrassing; but by his influence over the aborigines, and the confidence he inspired them with, and his knowledge of their habits, manners, and institutions, he had succeeded in reconciling them to British rule. The native question was now the most important at the Cape. We had succeeded in conquering the Kafirs, but it was too expensive a game to keep them in forcible subjection. We must endeavour to attach them to our rule. He believed that the best chance of stopping the drain on the resources of this country, and restoring tranquillity to the Cape, lay in the agency of Sir George Grey. Strong comments had been made

on a despatch addressed to Sir George Grey. He adopted that despatch; but still he thought the appointment the best that could be made. The Secretary of State had felt it his duty to write that despatch because the Imperial Parliament having imposed the debt of the New Zealand Company as a charge upon that Colony, he felt bound to enforce the payment without discussing the justice of it. He took an Imperial view of the question; Sir George Grey, being on the spot, took a colonial view, and hesitated to carry out his instructions till he was certain that the Home Government had acted with a full knowledge of all the circumstances. He quitted the Colony before he received any further instructions. Had he remained, no doubt he would have obeyed them.

SIR JOHN PAKINGTON said, he was not surprised that the hon. Member for Staffordshire (Mr. Adderley) should have brought this subject before the House, after the manner in which the Under Secretary for the Colonies had on a former occasion answered his (Sir J. Pakington's) questions with regard to the conduct of Sir George Grey, in bringing into operation the new constitution. He had put these questions to the hon. Gentleman in consequence of certain rumours which had reached him of the conduct of Governor Grey in relation to the elections in New Zealand—conduct, if those rumours were true, not at all creditable to the Governor, and certainly not in accordance with the intention of the Government by whom the Constitution Act was passed. He had put his objections in the form of a set of questions to save the time of the House, and he did not think the answer he received amounted to a complete vindication of Sir G. Grey; but he felt unwilling to take any further steps against an officer whose general merits as a colonial Governor he estimated so highly. Sir G. Grey had been absent for fourteen years as Governor, first of South Australia, and then of New Zealand; during that period he had performed many important services to the Crown, and merited the approbation of the Sovereign and her Ministers; and it was, therefore, with the more pain that he felt himself compelled to speak in unfavourable terms of some part of his conduct. He would confine his observation entirely to his recent conduct in New Zealand. With regard to the sale of land and the injunction, the hon. Gentleman could not be aware of the contents of the printed papers, as Sir G.

Grey himself stated that an injunction had been granted. He thought that Sir G. Grey had acted indiscreetly, and that he had set a most dangerous example and precedent in disobeying the injunction of the Supreme Court; and he (Sir J. Pakington) believed no circumstances could justify a Governor in such a course. He regarded his conduct in the disposal of the lands with great disapprobation. When he (Sir J. Pakington) sent out the instructions giving a temporary power to dispose of land, he had no intention of giving greater power than might be necessary to prevent public inconvenience and to simplify the duty of the Assembly. He was not prepared to refer accurately to the despatches, as he did not expect the discussion would have come on that evening, but by referring to his despatches it would be perfectly clear that the then Government had no intention that he should exercise the powers given him in such a manner as to deprive the Assembly of the important privileges granted to it by the Constitution Act. He could not approve of the long delay in convening the Assembly; the intention of the Government in passing the Act was, that the Legislature should be convened as soon as possible, and the instructions sent out were to that effect. Sir G. Grey, however, waited till the very latest day allowed by the law before he issued the writs, and up to the day he left the Colony—thirteen months after he received the Act—he took no steps to convene the Legislature. The delay was the more to be blamed as he had called into existence the local councils that could not properly carry on their functions till the Legislature was constituted. Again, he did not think Sir G. Grey justified in leaving the Colony until he had put the Constitution into operation. When the Constitution Act passed, the Government then in power decided, after much consideration, that, instead of sending out a new Governor to commence the constitution, it would be better that Sir G. Grey should remain in New Zealand for that purpose; but as the usual period of colonial service had almost expired in his case, it was arranged, to meet his wishes, that leave of absence should be given to him as soon as he had put the new constitution into action. He thought, also, Sir G. Grey's conduct was open to censure when he committed the illegality of appropriating the revenue by his own authority. There was another point which he could not pass over without some notice, and that was the recent

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election of Lieutenant General Wynyard, the Commander of Her Majesty's Forces in New Zealand, to the post of Superintendent of the settlement of Auckland. This gentleman, it appeared, held the anomalous and incongruous position of being Commander of Her Majesty's Forces, and, at the same time, acting Governor and President of one of the settlements. He put it to the right hon. Gentleman opposite (Sir G. Grey), whom he now addressed for the first time as Secretary of State for the Colonies, whether he would give his sanction to such a combination of offices as this? He hoped the right hon. Gentleman would lose no time in intimating that the officer in command of the forces in New Zealand was not to be considered as eligible for the office of Superintendent, still less that his election should be obtained by such means as had been resorted to in this instance; for he was informed that Lieutenant General Wynyard's election had been secured by the votes of his own soldiers and the military pensioners in the colony, persons who were under his own control and authority.

SIR GEORGE GREY said, that after the full and satisfactory statement of his hon. Friend (Mr. F. Peel), he would not enter upon the details of this question, more especially as he was not possessed of the full information necessary for that purpose. With regard to the last point stated by the right hon. Baronet, he might say that he knew nothing whatever of the circumstances of Lieutenant General Wynyard's election to the office he held as Superintendent. He might say this much, however, that he thought the office which he held as *interim* Governor was inconsistent with the subordinate office of President of Auckland. He thought the offices incompatible; and in these circumstances he had no doubt Lieutenant General Wynyard would see it his duty to resign the subordinate office which he held. With reference to what had been said as to Sir G. Grey having improperly left the Colony, he had to state that he left it with the full sanction of the Duke of Newcastle, and not till he had made all the preparations that were necessary for bringing the constitution into full effect.

House in Committee of Supply.

#### SUPPLY—MISCELLANEOUS ESTIMATES.

(1.) Motion made, and Question proposed—

"That a sum, not exceeding 22,928*l.*, be granted to Her Majesty, to defray the Charge of the

Salaries of the Governors, Lieutenant Governors, and others, in the West India Colonies, and Prince Edward Island, to the 31st day of March, 1855."

SIR GEORGE PECHELL said, he was not present when the Vote was taken for Bermuda, or he would have called the attention of the Committee to the fact that the Governor had been absent from his post when the island was desolated by a violent fever. In six months the Governor had been changed half a dozen times. Such a state of things was most injurious to the public service. Great blame attached to the Colonial Office for allowing the Governor to be absent at such a period; and he suggested that a civilian was not a proper party to hold an appointment which might require military experience. The Governor ought to be a naval officer, and he should not be permitted to absent himself from so important a post. He wished to know why the Governor of Bermuda should receive a salary of 1,500*l.* a year, whilst the other Governors received only 1,200*l.*?

SIR JOHN PAKINGTON asked whether accounts had been received of the increase of cholera in any of the West India Islands? He had heard that it was now prevailing in Barbadoes. He hoped attention would be given to the subject of the appointment of medical inspectors for the West Indies—an office first appointed by Earl Grey, which had been attended with great benefit. During the time he (Sir J. Pakington) held the office of Colonial Secretary, a medical inspector was sent to the West Indies, and he had since seen a despatch of the Duke of Newcastle, stating his opinion that it was desirable to have such an officer in order to promote sanitary regulations there, but declining altogether to provide funds for such an object. Now, he (Sir J. Pakington) thought it was a mistake to call upon the Colonies to pay all the expenses of medical inspectorship, as our naval and military forces stationed there enjoyed the benefit of it. It was of the greatest importance that the mother-country should take steps for the promotion of sanitary improvement in the West India Colonies.

SIR GEORGE GREY said, that in Jamaica measures had been taken to check the progress of the epidemic; and, though they had not asked for an inspector, instructions had been sent out by the Board of Health, and every information which could be of the least use to prevent the spread of disease. A few years ago two

medical inspectors had been sent to the West India Islands, and they had been the means of doing much good. The Board of Health had had the benefit of their experience in the suggestions which had been sent out. At the same time the suggestion should receive consideration; but he thought it right that, if the Colonies called for medical inspectors, they should bear a portion of the expenses.

MR. FREDERICK PEEL observed, that in the Colony referred to by the hon. Member for Brighton there was a large military force, and in the absence of the Governor the senior officer was the most fit person upon whom the command should devolve. With regard to the sickness in Bermuda, he might state that the Treasury had placed a sum of money at the disposal of the Governor for the relief of the sufferers.

MR. W. WILLIAMS objected to the charge of 3,500*l.* a year towards paying the salary of the Governor of Jamaica. The charge was a new one. The people of Jamaica, too, made their own laws, settled their own tariffs, and the mother-country had no more advantage there than any other country; and he thought, under these circumstances, that they ought to pay their own Governor. He moved that the Vote be reduced by this amount.

Motion made, and Question proposed—

"That a sum, not exceeding 19,428*l.*, be granted to Her Majesty, to defray the Charge of the Salaries of the Governors, Lieutenant Governors, and others, in the West India Colonies, and Prince Edward Island, to the 31st day of March, 1855."

MR. FREDERICK PEEL said, the charge was not a new one, because it was voted last year, and was the result of an engagement by which this country undertook to pay 3,500*l.* a year for three years, in consideration of the Legislature of Jamaica consenting to alter the constitution of the island. He hoped the Amendment would not be pressed.

CAPTAIN SCOBELL said, it was unreasonable that the people of this country should be bled to pay salaries in Jamaica which the people of Jamaica were well able to pay; but he supposed the bargain was binding.

Motion, by leave, *withdrawn*.

Original Question put, and *agreed to*; as were also the three following Votes—

- (2.) 28,875*l.*, Stipendiary Justices.
- (3.) 14,110*l.*, Western Coast of Africa.
- (4.) 11,276*l.*, St. Helena.
- (5.) 2,383*l.*, Western Australia.

SIR JOHN PAKINGTON asked why the sum of 600*l.*, usually included in this Vote, in respect of the salary of the Bishop of New Zealand, did not appear in the Estimate on this occasion? The Bishop of New Zealand was appointed to his present office about thirteen years ago, and the rev. Prelate had since attracted the good-will both of the Europeans and natives in that Colony, and indeed of all with whom he was connected. He might say that no dignitary of the English Church ever performed the arduous and important duties devolving upon him in a more able and exemplary manner than the rev. Prelate had done. The salary he received from this country was 600*l.* a year, and that sum they had been accustomed to see included in this Estimate every year, until this occasion. The Bishop of New Zealand, on entering upon his present office, of necessity abandoned his country, and relinquished the valuable preferment he previously held at home. Yet, notwithstanding, he (Sir John Pakington) had been informed that the rev. Prelate had received a communication from the Secretary of State for the Colonies, apprising him that the income he had hitherto received from this country was at an end. He (Sir John Pakington) thought he should be neglecting his duty if he was not to call on the Government to explain the circumstances under which the salary of the Bishop of New Zealand had been omitted from this Estimate.

SIR GEORGE GREY said, although he had not the pleasure of a personal acquaintance with the Bishop of New Zealand, he was ready to bear testimony to the great respect in which the rev. Prelate was held among all denominations of Christians. He could conscientiously say that there was not the slightest intention on the part of the Government to imply any want of esteem towards the rev. Prelate in the omission to which the right hon. Gentleman had referred. The right hon. Gentleman was mistaken in supposing that this was the first year in which that omission was made; he would find that last year Parliament voted nothing in respect of the salary of the Bishop of New Zealand. The facts were these:—This Vote had been frequently objected to in this country. It was alleged that the revenues of New Zealand were gradually increasing, and increasing so rapidly as to afford the prospect that in a short period the Colony would be able to bear the whole

expenditure of its own civil establishment without aid from the mother-country. In 1852 the Estimate was reduced to 10,000*l.*; that included 600*l.* as the income of the Bishop of New Zealand, which was altogether objected to on general as well as particular grounds by the hon. Member for Lambeth (Mr. Williams). In the course of the next year, when the Estimates were again under the consideration of the Duke of Newcastle, the Vote was reduced to within a fraction of 5,000*l.*, and the appropriation of that sum of 5,000*l.* did not comprise one shilling for the salary of the Bishop of New Zealand, whilst there was appended to that Estimate a distinct pledge that the House should no longer be asked to vote money towards the civil expenditure of New Zealand. Under these circumstances, that Vote did not this year appear in the Estimates. He had no doubt the Legislative Assembly of New Zealand would in future willingly make provision for the salary of the Bishop of New Zealand.

SIR JOHN PAKINGTON thought there was ample time to have had a communication with the colonists, to ascertain whether they were willing to provide for the salary of the Bishop before it was struck out of the Estimates, and that it was the duty of the Secretary of State to take care that the rev. Prelate should not in the interval be left without an income, which he (Sir J. Pakington) was afraid had not been done.

SIR THOMAS ACLAND bore testimony to the generous manner in which the Bishop had voluntarily foregone a considerable part of his revenue with the view to extend the episcopacy of the Australian Colonies, an object which was dear to his heart.

MR. FREDERICK PEEL said, he did not think at present that the Colony of Western Australia was capable of taking on itself the whole charge of its civil establishment, but there was a probability of its being in a position to do so in the course of another year.

Vote agreed to, as were also the following votes—

- (6.) 976*l.*, Heligoland.
- (7.) 3,023*l.*, Falkland Islands.
- (8.) 4,400*l.*, Hong Kong.
- (9.) 1,000*l.*, Labuan.
- (10.) 16,840*l.*, Colonial Land and Emigration Board, &c.

MR. BRIGHT said, he thought a great portion of this expense might be dispensed

with. The actual number of persons now emigrating through this machinery formed a small portion of the emigration from the United Kingdom. He had no objection to the employment of proper persons for the protection of emigrants in the ports of embarkation, but he did not see any occasion for retaining a staff which expended 600*l.* a year in postage. He thought the whole staff ought to be abolished, and that the expense ought to be limited to the employment of officers in the different ports to look after the safety of the passengers.

SIR G. GREY said, that the Board was not engaged in the promotion and encouragement of emigration, but that its chief use consisted in giving information to persons in different parts of the country who wished to emigrate, in protecting the emigrants against frauds, and investigating cases of abuse. Another important part of its duty related to taking up emigrant ships. It was very easy to object to the Vote in Committee, but if a disaster occurred at sea, the Government were blamed for not having taken proper precautions, which they could only do through the medium of responsible and efficient officers.

MR. W. WILLIAMS thought that as the public lands had now been generally surrendered to the Colonial Governments, such a charge as this ought not to be made against the revenue of this country.

CAPTAIN SCOBELL said, it had been elicited at the inquiry before the Committee on Emigrant Ships, that the Government emigration officers in the various ports, whose duties were very arduous, only received 208*l.* per annum, while some of the clerks of the Emigration Board had 500*l.* a year. He thought it well worthy of the House to consider whether the emigration officers were sufficiently paid.

MR. J. B. SMITH understood that the Emigration Board acted as agents. He hoped this Vote would not be brought forward again.

MR. J. O'CONNELL thought the emigration officers were by no means overpaid for the duties they performed, and that the staff was insufficient. In his opinion, the Emigration Board should be consolidated with the Board of Trade, and ought not to be dependent on the Australian Colonies for its payment; it should be a Government department, and control everything connected with emigration.

*Vote agreed to.*

(11.) 20,000*l.*, Captured Negroes, &c.

MR. MILNER GIBSON said, he would take the opportunity of putting a question to the noble Lord the President of the Council with reference to the Act of 1845, which was generally termed the "Brazilian Act." At the time that Act was passed, the present Premier was Foreign Minister under the Government of Sir Robert Peel, and stated, both in writing, and in speeches in another place, that he should be extremely glad when the time should arrive at which it would be in his power to repeal that Act. The Committee would recollect that it was an exceptional matter, and was considered a temporary provision for the suppression of the slave trade at Brazil; and he wished to ask the noble Lord what was the state of our relations with Brazil, and whether the time had not arrived for the repeal of that Act? He asked the question on the ground that the Committee of last year reported that the slave trade was abolished, that the policy of the Brazilian Government had undergone a change, and that stringent laws had been passed for the purpose of putting down all attempts at the renewal of the slave trade.

LORD JOHN RUSSELL said, that the right hon. Gentleman (Mr. Gibson) and the House must rejoice that the slave trade had been put down in Brazil; and they must not forget that this had been effected by our not passing over infringements of treaties, by our passing the Act to which the right hon. Gentleman had referred, and enforcing penalties upon those who carried on the trade in Brazil, and by the great vigilance and watchfulness of our fleet on the coast of that country. These had been among the means which had brought about the suppression of the trade, but he did not see that it followed as a logical sequence that we ought therefore to give up the means which had proved so effectual. Among these was the Act in question. No doubt, if, after a number of years, we found that no slave trade existed in Brazil, we might then reconsider this Act; but, although there had been several attempts made to negotiate a treaty on this subject, he had been informed by those best acquainted with the subject, that no stipulations had been proposed which would at all effectually supply the place of the means which were to be found in this Act. Our relations with Brazil were of the most friendly nature, and he was assured by the Minister of Brazil in this country, that the

slave trade had been given up by all the respectable inhabitants of Brazil, who wished the present state of things to continue. He (Lord John Russell) thought that it would, under these circumstances, be unwise in us, by repealing this Act, and indulging vain expectations that the slave trade was entirely rooted out, to give an opening for the renewal of those horrible scenes, the occurrence of which had now happily ceased.

Mr. BRIGHT had been very sorry to hear the observations of the noble Lord, which he hoped would not reach the other side of the Atlantic. He had the authority of Lord Truro for saying that this Act was a most flagrant violation of the law of nations, and he believed it had a tendency to exasperate every Brazilian who had a regard for the independence of his country. Such an Act could not, in his opinion, have any beneficial effect in the direction of which the noble Lord had spoken. The Brazilian Government was probably, looking at its administration and the state of its finances, one of the most respectable in the world; public opinion in Brazil was in favour of the abolition of the slave trade; and he believed that no one acquainted with that country had the slightest suspicion that that trade would be revived. Under these circumstances, he could not see anything more proper than that the Government of this country should undo what was a very questionable Act, when it was done for the purpose of establishing the relations between the two countries on a more friendly footing. He did not like the noble Lord's idea of holding this Act over the Brazilian Government as a security for its good behaviour.

VISCOUNT PALMERSTON must say that this Act was passed on perfectly justifiable grounds. We had a perfect right to make the law. Brazil had in 1826 signed a treaty by which the Government of that country bound itself entirely to abolish the slave trade; but from 1826 down to a comparatively recent period, nothing whatever was done by the Brazilian Government to put down the slave trade; 50,000, 60,000, and even 70,000 negroes had been brought into Brazil every year, and sold publicly in the streets of the town, without the slightest attempt on the part of the Government to interfere and prevent the violation, not only of the treaty, but of laws passed in execution of that treaty. Then came this Act, passed, he believed, in 1845, but which was not

*Lord J. Russell*

attempted to be carried out till 1850. The hon. Member for Manchester said, "Public opinion in Brazil had changed, and the Government took the earliest opportunity, after public opinion enabled them to do so, to put down the slave trade." Why, nothing of the kind took place. The Brazilian Government was composed of persons favourable to the slave trade, and nothing would have induced them to put it down except the coercion which the English Government enforced upon them by the execution of the provisions of the Act of 1845. There was undoubtedly a small public opinion getting up on the subject in Brazil. In every country there is that feeling among men not actually engaged in the commission of crime which induces them to look upon crime with detestation; but that feeling in Brazil was perfectly powerless, in consequence of the great influence which a few slave dealers exercised over the Members of the Government and of the Legislature. But then came this Act. We put it in force in the summer of 1850. A great sensation was produced. Immense indignation was expressed, especially by those whose traffic in slaves was prevented by the operation of the Act; and cries were raised of violation of independence, infraction of national rights, and so forth. The Brazilian Government then said, "If you will suspend the execution of this Act, and discontinue seizing our slavers and carrying them off for condemnation or burning them on the coast, we will ourselves put a stop to the slave trade." Well, our Minister at Brazil and our Commander on the coast took them at their word. They said, "We will suspend the operation of the Act—we have no orders to do so, but we will take the responsibility upon ourselves, if you fairly do what you have promised." What followed? In three or four months after that the slave trade went on as bad as before; and then our Minister at Rio was obliged to say to the Brazilian Minister, "You have entirely broken faith with me; you made certain engagements which you promised to fulfil in the event of our not continuing our operation to suppress the slave trade; our suspension is at an end, and the orders we have received from our Government must now be obeyed." For a certain period of time, the execution of these orders accomplished its purpose. The Brazilian Government found that the slave trade would not be tolerated, and then they set to work in good earnest, gave orders to their agents

to do what they ought to have done twenty-five years sooner, and at the end of a couple of years our system had entirely succeeded, the result being that, he believed the slave trade was now practically extinct. Well, now, how stood the case between the English and Brazilian Governments in regard to that? Why, he said that we have conferred the greatest possible benefit upon the Brazilian nation. The slave trade was carried on only for the advantage of a few overgrown capitalists, who made rapid fortunes in the horrid traffic; but a great number of small capitalists were ruined by it—the nation was demoralised by it—the people were degraded by it—all improvement was stopped by it. Every abomination which the human imagination could conceive was gradually spreading through the whole country. What effect had been produced by the execution of the Act? It had put a stop, at least to a great extent, to the demoralisation and to the abominable crimes which previously prevailed. The capital which used to be employed in buying these wretched negroes, and spreading desolation through the whole of the interior of Africa, was now employed in internal improvements. The Indians were gradually becoming valuable for the purposes of agriculture, and the whole tone of the country was changing for the better in consequence of this cessation of the slave trade, which was the effect of the Act which the hon. Member for Manchester was so eager to repeal. He could only say that if the Act were repealed we should be doing the greatest injury to the Brazilian people which it would be possible for us to inflict upon them. He did not say that the time might not come when—after a long series of years, when the slave traffic shall have wholly ceased—they might seriously consider that question; but at the present moment, when only the other day one of those slave dealers arrived in this country to invest here the profits of his iniquities in Brazil—when the recollection of these crimes, which he believed were not so much perpetrated by Brazilians as by Portuguese settled in Brazil, was so recent in the minds of all—he said it would be an act of madness if the British Government were to do anything which would have the effect of encouraging the revival of the detestable trade in human beings.

Mr. ADDERLEY agreed with the hon. Member for Manchester that public opinion had had more to do with the suppression of

the slave trade in Brazil than the Act in question, otherwise how did it happen that an Act which could not be enforced for about twenty years was so easily put in operation at the end of that period? The truth was that the execution of the Act was at last forced upon the Brazilian Government by public opinion. The treaty with Spain for suppressing the slave trade in Cuba had produced no effect whatever, for the simple reason that there was no public opinion to enforce it; and he contended that but for public opinion in Brazil the same thing would have taken place there.

SIR GEORGE PECHELL thought that the hon. Member for Manchester laid rather too much stress upon the sensitiveness of the Brazilian people. He trusted that, as the Spanish Government seemed now determined to put down the importation of slaves into Cuba, the squadron upon that coast would be maintained in a high state of efficiency. It had recently been reduced, but he hoped it would be increased to such an extent as to be enabled to co-operate in the most effectual manner with the Captain General of Cuba in his attempt to put an end to the horrible slave traffic. It did not appear that the Brazilian Government had been anxious for the repeal of the Act of 1845, and he hoped the Act would be maintained in force till there was some further security for the suppression of the slave trade.

SIR THOMAS ACLAND said, the House and the country were greatly indebted to the noble Lord the Home Secretary for his unwearied and successful exertions to suppress the slave trade, and thought they could do nothing less than leave the further prosecution of the matter in the hands of a Minister who had already done so much.

*Vote agreed to.*

House resumed.

#### SUPPLY—NAVY ESTIMATES—RUSSIAN PRISONERS OF WAR.

##### *Resolution reported—*

"That a sum, not exceeding 20,000*l.*, be granted to Her Majesty, to provide for the expenses on account of Prisoners of War, which will come in course of payment during the year ending on the 31st day of March, 1855."

Mr. MILNER GIBSON said, it had been reported that the Russian prisoners captured on board merchant vessels by our cruisers had been set at liberty, on condition that they would not serve against us, and were permitted to accept service on

board British merchantmen. He wished to ask the First Lord of the Admiralty if that rumour was correct; and perhaps the right hon. Gentleman would explain who were the prisoners who were to be put into the building which was to cost so much money to the country?

SIR JAMES GRAHAM said, it had appeared to the Government that whilst Parliament was still sitting preparations should be made for the reception of prisoners who might be captured during the war. He had stated, when he proposed this Vote on a former evening, that in the last war there were three or four large buildings for this purpose in different parts of the country, and one in Scotland; that they had all, however, been since pulled down or converted to other uses, and that, therefore, other preparations were now necessary for the reception of prisoners of war. An opportunity had recently presented itself to the Government for purchasing a prison of considerable size at Lewes, in the county of Sussex, for this purpose; and as the price was very reasonable, he had struck a bargain with the owners, and Parliament was now asked to defray the cost. At Constantinople, also, with the consent of the Seraskier and the Admiral, preparations had been made for the reception of prisoners of war—not so much of sailors as Russian soldiers—to the extent of several hundreds. It was quite true, with reference to a considerable proportion of the commercial sailors who had been captured, that their parole had been taken, and they were offered permission to enter the British merchant service upon the condition they should sail to the south and west, but not return to the Baltic or the Black Sea. Some had accepted this offer, and already a considerable number had been liberated. No expense would be incurred in regard to these prisoners of war that could be avoided, but the Government had felt it necessary to make some provisions for their reception, and to defray the cost of their maintenance. The sum, therefore, now asked for was only 20,000*l.* altogether, including 5,000*l.* purchase money for the gaol; whereas, in the course of the last French war, he believed the cost of prisoners amounted to 1,000,000*l.* annually.

MR. OTWAY wished to call the right hon. Gentleman's attention to the risk caused to our own soldiers and sailors by the non-observance of proper regulations on board of the transport ships. He would

— *Mr. M. Gibson*

not enter into the unfortunate case of the *Europa*, but it was perfectly obvious, from the report of Captain Carnegie, and other documents, that the loss of that noble soldier, Colonel Moore, was to be attributed to the fact that he would not leave the troopers, and that they remained on board because there was no boat to take them away. He (Mr. Otway) had made a voyage to the antipodes himself, in one of these ships, and could state that from the day that the vessel lost sight of land till it sighted Australia the long boat was filled either with sheep, cows, provender, or lumber of one kind or another, instead of being kept ready and available for the passengers in cases of casualty. Now, he would suggest that the Government should require from every officer sent out in charge of a transport, before he was entitled to his pay, to sign a certificate to the effect that during the whole of the voyage the long boat (which would contain a great number of troops or passengers) had not been used for the stowage of cattle, provender, or any description of lumber. The officers and troops ought also to be told off in parties, each to a particular boat, to which they could have recourse in case of fire or other accidents; and, if such was done, such lamentable catastrophes as those that had occurred, especially to the *Amazon* and the *Europa*, would be prevented.

MR. ALCOCK thought it was useless to pay money for a building to hold prisoners of war when we had ships in ordinary, and should vote against it if the Committee divided upon it.

SIR GEORGE PECHELL also considered that large floating prisons might be got ready at very little expense for containing prisoners of war.

SIR GEORGE TYLER asked if any offer had been made by Russia to exchange the officers and crew of the *Tiger* for prisoners captured by us?

SIR JAMES GRAHAM said, that no official report had yet been received, or any arrangement made on the subject to which the hon. and gallant Member had referred. He had stated a few evenings ago, that there was a 74 ship at Sheerness for the reception of prisoners of war taken in the Baltic; and at Constantinople there was a hulk for the same purpose.

Resolution agreed to.

The House adjourned at half after One o'clock.

## HOUSE OF LORDS,

*Tuesday, June 27, 1854.*

MINUTES.] *Sat first in Parliament*—The Lord Stewart of Stewart's Court, after the death of his Father.

PUBLIC BILLS. — 1<sup>a</sup> Portland, &c., Chapels; Warwick Assizes; New Forest; Vice Admiralty Court (Mauritius); Court of Chancery, County Palatine of Lancaster.

3<sup>a</sup> Middlesex Industrial Schools; Witnesses.

TREATY WITH THE UNITED STATES—  
THE NORTH AMERICAN FISHERIES—  
QUESTION.

EARL FITZWILLIAM: My Lords, I am desirous of asking a question, of which I have given notice to my noble Friend the Secretary of State for Foreign Affairs. Your Lordships are, of course, aware, that there is a rumour that some treaty is negotiating, or has been actually signed, between this country and the United States relative to the fisheries on the coasts of the British Colonies. There is also a report—and it is on that point I am desirous of having an answer from my noble Friend—that that treaty will contain a proviso by which American traders will be allowed to establish factories for the purpose of curing their fish on the coasts of the British Colonies. My Lords, I conceive this is a matter of extreme importance, and I am therefore desirous of ascertaining at as early a period as possible whether the treaty so in course of negotiation, or perhaps actually concluded, contains any provision to the effect that I have described. I cannot conceal from your Lordships, that I think very serious injury would be done to the colonial interests of this country, and to the interests of this empire in general, if any such permission were granted to the United States.

THE EARL OF CLARENDON: My Lords, I am happy to say that the treaty, to which my noble Friend has just alluded, has been negotiated and concluded between this country and the United States. That treaty only reached my hands yesterday afternoon, having been forwarded by Lord Elgin from Quebec; and I really have not yet had time to give it all the attention which its importance deserves. But even if I had, I should not think it proper, at the present time, to enter into any discussion of the provisions of a treaty which has not yet been approved by the Senate of the United States, and has not been ratified in this country. My Lords, it appeared to Her Majesty's Government that

the return of Lord Elgin to Canada afforded an opportunity which ought not to be neglected, of endeavouring to settle those numerous questions which, for years past, have been so embarrassing to the two Governments. One of those questions especially—that relating to the fisheries—has given rise to annually increasing causes of contention, and has sometimes threatened collisions, which I believe have only been averted for the last two years by the firmness and moderation of Sir George Seymour and of the British and American naval commanders, and by that spirit of friendship and forbearance which has always characterised the officers of both navies. But, my Lords, your Lordships are also aware that there are other questions which have given rise to embarrassing discussions between the Governments of the two countries—questions which involve the commercial relations of our North American possessions with the United States; and that those questions, which involve very divergent interests, have become so complicated as to render their solution a matter of extreme difficulty. But Her Majesty's Government thought that no man was more entitled to the confidence of those Colonies than Lord Elgin, in consequence of his untiring energy and great exertions for the promotion of their interests, and of the success which had attended his endeavours. It was, therefore, probable that any arrangement which Lord Elgin might make on their behalf would be viewed by the colonists with favour. And here let me mention—for it is but an act of justice—that, in confiding this important trust to Lord Elgin, no want of confidence was exhibited or intended towards Mr. Crampton. His conduct has merited, and has received, the entire approbation of the Government. But Lord Elgin, as Governor General of Canada, and of the British Possessions in North America, possessed qualifications for conducting this particular negotiation, which were necessarily peculiar to himself. Lord Elgin was met by Mr. Marcy, on the part of the United States Government, in a spirit of the most friendly candour. And, indeed, if it had not been so, it would have been impossible for him to have gone through the preliminary discussions which were the necessary foundation of the treaty. That treaty, however, has been concluded, and I can inform my noble Friend, with reference to the particular question which he has asked me, that it contains no new provision whatever for enabling American

citizens to establish factories upon the British territories. As far as I have been able to institute a comparison, the words are nearly the same, and the principle is quite the same, as in the treaty of 1818; because, although some concessions have been made upon the part of the colonists, and although they have not obtained all the privileges which they claimed, I nevertheless believe—and my opinion is strengthened by that of Lord Elgin—that the treaty will prove of signal benefit to the colonists, and will tend in a great measure to promote and advance their prosperity. I believe also that the United States will derive—as they will be entitled to derive—reciprocal advantages, and will be benefited to a great extent by the facilities which will be given for the development of their internal resources. I trust, therefore, that nothing will occur to mar the completion of this great work, which I firmly believe, more than any other event of recent times, will contribute to remove all differences between two countries whose similarity of language and affinity of race, whose enterprise and industry, ought to unite them in the bonds of cordial friendship, and to perpetuate feelings of mutual confidence and good-will.

THE EARL OF HARROWBY inquired, whether any concession had been obtained from the United States with reference to the coasting trade between New York and California?

THE EARL OF CLARENDON could only say, that steps had been taken with that view, but he was unable to report much progress. The American Government denied the parity of circumstances between their eastern coast and the coasting trade of this country; but although they admitted that England had granted some advantages with reference to our own coasting trade, yet they denied that these were sufficiently important to warrant our demand of reciprocal advantages with reference to their own eastern coast.

THE EARL OF ELLENBOROUGH said, it had been confidently stated in the North American Colonies that the provisions of this treaty had been concluded subject to the approval of the provincial Legislatures of those colonies which were especially interested in the fisheries. He wished to ask whether any provision of that kind was contained in the treaty?

THE EARL OF CLARENDON replied that there were provisions in the treaty, to the carrying out of which the consent of

*The Earl of Clarendon*

the Colonial Legislatures would be necessary; but the Government had reason to anticipate, from the communications received from Lord Elgin, that their approval and concurrence would be obtained.

THE EARL OF ELLENBOROUGH wished to know whether, if the Legislature of one colony should concur, and the Legislature of another colony should object, the whole would fall to the ground?

THE EARL OF DERBY quite agreed that, with respect especially to the colonies interested in the fisheries, it was most important their assent should be obtained to an arrangement which would vitally affect their interests, yet he did not see that it was necessary that they should confirm the provisions of the treaty. He was afraid that if we had to consult the Colonies with respect to a treaty with a foreign country, the effect would be, that on such questions the Colonies would be independent.

THE DUKE OF NEWCASTLE said, it was, of course, exceedingly difficult and inconvenient to go into a discussion with reference to negotiations the whole facts connected with which were not yet before their Lordships' House. He could only say that this point had been considered very carefully; that legal opinions had been taken as to whether the provisions of the treaty would require confirmation by the local Legislatures in the different colonies; and that the legal opinions which were given were to the effect that the assent of the Colonial Legislatures was necessary to carry the provisions of the treaty into full and entire effect.

THE EARL OF DERBY said, that if that were so, it would place the Colonial Legislatures above the Imperial Parliament, for the consent of Parliament was not necessary to a treaty entered into by the Crown; and how was it possible that the Legislature of a colony could have any right, with respect to the conclusion of a treaty with a foreign Power, which the Imperial Parliament did not possess?

THE DUKE OF NEWCASTLE repeated his protest as to the extreme inconvenience of discussing such questions in the absence of that full information which was essential to their being properly understood. He had never said that the Colonial Legislatures had any right with reference to the confirmation of a treaty which the Imperial Parliament did not possess. All that he had said was, that Acts of the Colonial Legislature would be necessary

to give to certain provisions of the treaty full effect.

#### FINCHLEY ROAD ESTATE BILL.

THE MARQUESS OF CLANRICARDE moved the second reading of the Finchley Road Estate Bill. He entreated their Lordships to consider the case individually—each one for himself—and to come to a conclusion upon it according to its merits. He asked for justice only. If the Bill were in its nature anything extraordinary—if it did wrong to any man—if it infringed upon any man's rights or the disposition of any departed man's property—or if it violated, in any degree, the practice of their Lordships' House—by all means let it be thrown out; but if, on the other hand, it was entirely consistent with that practice—if it were framed in accordance with rules which had been so constantly and regularly followed that they formed part of the judicial system of this country—he called upon their Lordships, in the name of justice, and with a due regard to the character of their Lordships' House, not to reject it upon local, personal, or party grounds. It was his duty to meet the objections which had been urged upon former occasions against Bills relating to this estate, and which he understood would be urged against this. It had been called a Bill for the Inclosure of Hampstead Heath. Now, he firmly believed that it was never in the contemplation of any man, and, if he were rightly informed, it was certainly never in the contemplation of Sir Thomas Wilson, to attempt anything like an inclosure of Hampstead Heath. In point of fact, the inclosure of Hampstead Heath would be an injury to him. The Bill applied to the land along the new Finchley Road, which was separate and away from Hampstead Heath, and he believed was not visible from it. It had nothing more to do with the heath than it had with Regent's Park; and even if houses were built upon the land to which the Bill related, not one of them would be visible from the heath. If there was any object on the part of Sir Thomas Wilson of preventing the public from frequenting the heath, it would be very easy for him, by agreement with the copyholders, who were very few in number, to prevent the public from trespassing upon any part of the heath. But Sir Thomas was actuated by no such desire. If there was any reason why the land mentioned in this, the Finchley Road

Estate Bill, should not be built upon, let this be avowed and declared; but he did not envy the sense of justice or the argument of any man who should stand up in their Lordships' House, and say that, because it was convenient to a particular locality that certain rights of property should never be exercised, a man was, therefore, to be spoliated of the rights belonging to his property, and prevented from exercising them for ever. There was, however, an objection to the Bill which, *prima facie*, appeared to be more formidable—the objection arising from what it had been said were the intentions of the testator. It was usual in cases like the present to refer the Bill to two of the Judges, not for the purpose of advising their Lordships on the preamble, but for the purpose of reporting whether, in the event of the preamble being proved, the Bill was a fit and proper Bill to pass. The meaning of that was, that they should see whether the interests of mortgagees and of remaindermen were properly protected, and whether the Bill contained any provisions which would be a violation of the common law or of the general law of the country. If the Judges were right in the course which they had taken in this case, they had neglected their duty in the case of every similar Bill which had been referred to them; because the object of every such Bill was to obtain relief from the consequences of the settlement or of the will which bound up the property, and prevented the party in possession from deriving the full benefit of it; and it might be suggested in every similar case—as the Judges had suggested in this—that it was a question whether, if the testator could have known all the circumstances which had happened subsequently to the making of his will, he would still have bound up the property as he had done in the absence of such knowledge. The course which their Lordships had always taken had been to inquire into all the circumstances—to look at what really had been the intention and will of the testator—but at the same time to grant relief where it had been clearly shown that the party coming for that relief was fairly entitled to it. If they took a different course in this case, they would inflict a flagrant injustice. Let them see, however, whether the testator could by possibility have anticipated or had in his mind such a state of things as now existed. The will was made in 1805, and by the codicils in 1816 and 1821 respectively

power was given to grant building leases where the testator saw that power could be exercised with advantage—on his Woolwich estate and elsewhere. In 1821 Sir Thomas Wilson died; and as at that time there was no direct road communication between London and the Finchley estate, it could not be foreseen that building leases would be desirable. Reasoning by analogy, it was only fair to suppose the testator, could he have anticipated the making of the Finchley Road, would have given the same power for the improvement of Finchley as he gave for the improvement of other parts of his property. A number of Acts precisely similar to this had been passed, and many more were before Parliament in the present Session. Parliament sanctioned, and he thought wisely, analogous powers upon the Paddington estate, by which the income of the see of London had been enormously increased, and he thought it rather hard to turn round on Sir Thomas Wilson, in the adjoining parish of Hampstead, and refuse this Bill. To do so was to commit a gross injustice, which affected the whole character of their proceedings, and to establish a precedent in opposition to the course which had hitherto been pursued. Only the other day their Lordships passed the Leasing Powers in Ireland Bill, which would break through all the wills and settlements in Ireland, without regard to the sentiments of private individuals, but because the improvement of the country made it necessary. The improvement of this estate required these powers just as much as the improvement of any estate in Ireland required the powers of the Leasing Bill. It ought not to be forgotten that had this gentleman married and had an heir, this Bill would be wholly unnecessary. He had not married, and now was at a time of life when these powers were necessary to free him from the extraordinary position in which he alone was placed—for his brother and nephew would be in a position to do what they liked with the estate. But did these remaindermen object to the present Bill? No, for they joined with Sir Thomas Wilson in praying Parliament to grant those powers deemed necessary for the improvement of the estate. If ever there was a case founded on justice, law, and reason, it was the present, and he implored their Lordships to look into it. In the event of the present Bill not passing, there was a petition from Sir T. Wilson and his heirs, by which Sir Thomas sought to appear be-

*The Marquess of Clanricarde*

fore their Lordships by counsel, and he (the Marquess of Clanricarde) trusted that their Lordships would in justice listen to the petitioner.

*Moved*, That the Bill be now read 2<sup>a</sup>.

LORD BROUGHAM said, that the statement with which the noble Marquess had commenced and concluded his defence of a desperate cause was entirely unnecessary. This was not a question of taking a man's property from him, or of infringing his rights. If spoliation were the object of the opposition, he should be the last to oppose this Bill; but the fact was they were going to oppose, for the sixth time, an attempt of this gentleman to take away property which was not his own—to encroach upon the rights of other parties—and to defeat the will under which he held these estates. He came to Parliament and said, "I hold certain property under a certain will, and I am not satisfied with the rights that will gives me; please to let me have those rights extended and that will set aside." He denied that the Judges to whom the Bill had been referred had answered questions that had not been put to them; for what they were asked was, whether, taking it for granted that every tittle of the preamble had been proved, it was reasonable that the Bill should be passed into a law, and they answered that, assuming all the facts to be proved, they could not advise their Lordships that it was reasonable that the Bill should pass into law. Lord Tenterden, Lord Denman, and his noble and learned Friend the present Lord Chief Justice had expressed similar opinions; and, believing that it was not desirable to set aside a will on a speculation that some possible change in the intention of the testator might have occurred had he lived to see the changes which had taken place in the property, he should conclude with the same Motion Lords Denman and Tenterden had concluded on former occasions, that the Bill be read a second time this day six months.

Amendment *moved*, to leave out "now," and insert "this day six months."

EARL MANVERS supported the Amendment, being decidedly of opinion that an act of great injustice would be effected by this Bill.

LORD COLCHESTER said, that when the testator had made the will in question there were several estates between Hampstead and London, and this land was not available for building purposes; but in 1828 a new approach to London by the

Finchley Road had been made, and, the land then becoming valuable as building ground, the possessor of the estate had from that time endeavoured to induce their Lordships to extend to him powers which were not unreasonable, and which had been granted in similar cases. It had been stated in an article in a leading London newspaper that this Bill would have the effect of depriving the people of London of the advantages of Hampstead Heath; but it might as well be said that it would interfere with Hyde Park, as the land did not even abut on the heath. He should, therefore, support the second reading.

LORD CAMPBELL said, that his opinion with regard to the Bill remained unaltered, and it was the same as that which had been expressed by Lord Tenterden and Lord Denman—namely, that it was contrary to the principles of our jurisprudence that such a Bill as this should pass. The noble Marquess said that the law was all upon his side; but, if so, why come to this House? Why did not the petitioner go to the tribunal where he had the honour to preside, or any other court in Westminster Hall? But the law was, in fact, all against him, and he was, therefore, obliged to ask this House to set aside the will of the testator, and to give him rights to which he was not entitled. "Spoliation," said the noble Marquess; but who wished to spoliolate? Sir Thomas Wilson, according to the recital of the Bill, was a tenant for life, and no more. Let him enjoy the rights and immunities belonging to a tenant for life, but not give leases for ninety-nine years as against the person in remainder. He could not say that his father's will had been obtained by undue influence, or that it was contrary to law, but he asked their Lordships to set it aside because it was distasteful to him—because he wanted to have more powers than it gave him. If they thought that Sir Thomas Wilson, if he still lived, would be willing to alter his will and give greater powers to the tenant for life, that would be a ground for their interference; but Sir Thomas Wilson had given his son powers to grant long leases as to certain portions of his estates, but had cautiously, and, as he believed, from motives of patriotism and benevolence, withheld those powers with regard to this estate in Middlesex. If they granted this application, there was no reason why the same principle should not apply to the whole of Hampstead Heath,

and it should not be altogether inclosed. When the former Bill was laid before the Judges, their attention was not drawn to the codicils of the will; but in the present Bill those codicils were recited, and it had been brought to the notice of the Judges that the testator gave these leasing powers as regarded some of his estates, but entirely withheld them as regarded the manor of Hampstead; and they had, after looking at those codicils, reported against the Bill. He should for these reasons support the Amendment.

LORD ST. LEONARDS said, that the arguments on both sides had satisfied him that the Bill ought to pass, and he should, therefore, vote for the second reading. The arguments of his noble and learned Friend the Lord Chief Justice had astonished him. The noble and learned Lord had stated, in the first place, that this Bill was contrary to the principles of the jurisprudence of the country. Their Lordships knew that that was not correct. The jurisprudence of this country allowed every man who was a tenant for life to apply to Parliament for leave to do certain things which he had not the power to do by the will of his predecessor. Again, his noble and learned Friend objected to Sir Thomas Wilson that he was only a tenant for life. Why, it was because he was a tenant for life, without the power sought for, that he came to their Lordships to ask it. It was an every-day occurrence for a tenant for life to come to Parliament under such circumstances. There was no person claiming under the settlement that objected to the power being granted; and in truth, the whole opposition to this Bill was not with reference to the estate or to the intention of the testator, but was simply because they would not have Hampstead Heath inclosed. It was quite in the ordinary course of legislation for Parliament, by means of private Bills, to grant tenants for life powers of leasing such as those now sought for at their hands. The Lord Chief Justice admitted that there might very well be a general Act for everybody, but said that they ought not to pass particular Acts for individuals. Their Lordships would no doubt hold exactly the other view. What had the Legislature done with respect to Ireland? In Ireland every man who had only three days to come on a lease originally granted for sixty years had the power to grant building leases for ninety-nine years and improving leases for thirty-one years; so that Parliament had given powers ten times more extensive

than those now sought for to an entire nation, and was now asked to deny them to a private individual. Had the opposition to this Bill reference to the intention of the testator? Why, all the evidence went to show that the intention of the testator was in favour of the object of this Bill. The testator in his will gave such powers as seemed then to be necessary for other portions of the property, and in a codicil he gave powers to meet the altered circumstances of Woolwich. But the Lord Chief Justice asked, what would the testator do if he were now living? No reasonable man could doubt for a moment, after looking at the map upon the table, what the testator would do if he were now alive, or what he would have done if the altered circumstances had occurred in his lifetime. A railway now ran through the middle of the property, and the whole of the estate was surrounded by ground either now built upon, or to be leased for building purposes. He had not the slightest doubt, for his own part, that if the testator were now living, he would give a power similar to that which was asked for in this Bill. He would vote for the second reading of the Bill.

THE BISHOP OF OXFORD said; that, without entering into the legal argument, he would give his vote in favour of the Amendment; and against the granting of this *privilegium*, upon a plain and simple view of the question. No injustice could be done by refusing a *privilegium*, which was of the nature of a favour; and he thought that any one coming to Parliament for such a *privilegium* should be required to show that it would not, either by itself or by its almost necessary consequences, inflict an injury upon the public at large. Now, they could not forget that the promoter of this Bill had in former Sessions asked for far more extensive powers than those which he was now endeavouring to obtain. That showed the animus of Sir Thomas Wilson; and in a letter which he had received from a highly respectable gentleman, living on the spot, the writer stated that before the people in that locality commenced their opposition to the present Bill, they inquired of the agents for the promoter whether, if Sir Thomas should obtain the authority which he was now asking, he would be satisfied with that, and pledge himself to seek no more. In reply, the agents stated that their client considered this Bill as only the first instalment of what rightfully belonged to him, and that he was determined to have the whole

Lord St. Leonards

of Hampstead Heath as soon as he could get it. Now, he thought a person coming to Parliament with such intentions and with such an animus ought to be watched carefully, and that their Lordships ought to exercise great discretion before they granted the indulgence which was now asked for. He begged them to remember that he was now pleading the cause, not of those in a high rank of life, who could enjoy the pure air of heaven in the country whenever they pleased, but of the poor inhabitants of London, whose interests were at stake, and who could reach only these suburban liberties, which he held they were not, for the advantage of an individual, to run the risk of limiting.

THE EARL OF SHAFTESBURY opposed the Bill on the ground that it appeared to him that the testator intended that this ground should not be built upon.

THE EARL OF DERBY said, he was anxious upon this occasion, as on every other, to come to a decision in accordance with that which he thought justice required. The right rev. Prelate had said that they were bound to look to the interests of the poor, and had read an anonymous letter which stated that Sir Thomas Wilson had declined to pledge himself not to bring forward, at some future period, another Bill for the inclosure of Hampstead Heath. Now, it was important to remark, with regard to Hampstead Heath itself, that Sir Thomas Wilson had never proposed to interfere with it. He had sought, and had been refused, power to build upon land belonging to himself in the immediate neighbourhood of Hampstead Heath; but with regard to the heath itself, he had never at any time asked for such powers. The present Bill did not at all affect Hampstead Heath. It referred to a part of the estate which was at a considerable distance from Hampstead Heath, and separated from it by a main road; nor did it interfere in the slightest degree with the public enjoyment. Therefore all the anxiety of the right rev. Prelate for the poorer classes was an anxiety, not for the consequences of this Bill, but for those of a Bill which, if the present one passed, he supposed Parliament would be called upon to consider in some future Session. Now really that was carrying their anticipations somewhat too far. If it was wrong upon public grounds to pass the present Bill, let it be opposed, and let the grounds of opposition be stated to the House; but if no public injury was to be apprehended from

it—if it only enabled the tenant for life to do that which it was exceedingly probable his predecessor, could he have foreseen the altered circumstances of the estate, would have given him power to do—he thought it would be wrong to refuse to pass it merely because its promoter might perhaps, at some future period, bring forward a Bill with reference to an entirely different part of the estate.

THE MARQUESS OF CLANRICARDE briefly replied.

On Question that “now” stand part of the Motion, their Lordships divided:—Content 34; Not Content 11: Majority 23.

*Resolved in the Affirmative*; Bill read 2<sup>a</sup> accordingly, and committed.

#### THE KAFIR WAR—MEDALS—QUESTION.

THE DUKE OF RICHMOND inquired of the noble Duke the Minister of War, whether it was the intention of Her Majesty's Government to confer medals upon the officers, non-commissioned officers, and private soldiers who served in the late campaigns in South Africa? At the outset he wished it to be distinctly understood that in this matter he was not influenced in the slightest degree by party or political motives; he was actuated solely by the same feeling which influenced the masses of the people of England, who desired that some mark of grateful acknowledgment should be given to those who had performed distinguished service to the country in the Army and Navy, and who, unless they received a medal or some mark of honour, had little else to show. It had been the practice, for some years at least, to grant to officers commanding our fleets or armies, the captains of ships, and the commanding officers of regiments, the distinction of a medal, or the honour of the Order of the Bath, or by promotion, and of late years honorary distinctions had been conferred upon officers of lower rank than formerly with great benefit to the services; and his object was to extend that system to soldiers and sailors, and he believed that respectable persons would thereby be induced to enter more freely into the service of the country. Much had been done of late years to improve the condition of those brave men, but much still remained to be done. He was the last man who would wish to diminish the credit due to the admirals, the commanders of our forces, or to the commanding officers of regiments; but he submitted that, though it was most creditable to them when their regiments

distinguished themselves, yet their Lordships ought not to forget and pass by those men who, by their conduct under every danger and every privation, enabled this country to conquer, and enabled those officers to wear the decorations which, until late years, had been denied to them. Medals had been rightly given to our soldiers engaged in India and China. Medals had also been most properly given, after long consideration, to the brave men who fought in the Peninsular War. But he would ask their Lordships to remember the difference between an officer commanding a regiment and a private soldier. The former were the recipients of medals; but the latter, unless in exceptional instances, received no medal at all. A man went to the Cape of Good Hope, for instance, and underwent all sorts of hardships and privations; marching and countermarching over a country which was nearly impassable; suffering every species of privation with the greatest patience, without food or other means of sustenance, and every moment exposed to be shot from some ambush by the Kafirs; knowing that if for one instant he should be separated from his party, he would receive no quarter from his enemy; aware that if wounded in a retreat, or in an endeavour to flank the enemy, he would be seized and tortured by them. None but those who had undergone these dangers and these privations—which he begged to be permitted to say he, in his humble position and in days gone by, had experienced—could be aware of the horrors, the privations, and the dangers which both soldiers and sailors must undergo in active warfare. A man came back to his country with his constitution destroyed; but, not having served sufficiently long, he was not entitled to a pension—he probably received one year's pay. When that man returned to his native home, he would be comparatively happy, if upon his breast he could show the marks of approbation from his Sovereign and his country—marks of approbation highly valued by the friends of his boyhood and by his old schoolfellows. There could be no ground why they should not confer on the private soldier that honour which they were now in the habit of conferring on the officers. He felt that, in asking his noble Friend to assent to confer on the Army who had been engaged in the Kafir War a well-deserved distinction, he was asking that boon from a Member of the Government who had never shown himself hostile to the claims

of the Army. He remembered that, after having brought the subject often and often before the House, medals were at length granted and gratefully accepted by the veterans of the Peninsular War when Lord John Russell was leader of the House of Commons, and when Sir George Grey was Secretary for the Home Department. But while he thus urged the claims of these men to the honorary distinctions which their services merited, let him not be misunderstood. He by no means intended to say that, if the Government should determine that no medals should henceforth be given to the Army or the Navy, it would prevent the British soldier or sailor from doing his duty. He knew both the soldier and the sailor too well. They were enlisted from a free and independent population, and he knew that they would ever do their duty, and would ever be found to devote their lives to their country's cause. But that was no reason why the country should be ungrateful. He apologised for having taken up so much of their Lordships' time, but he felt that he could not properly have put the question to the noble Duke without prefacing it shortly by a statement of the grounds which had induced him to ask it, and to which he hoped he should receive a favourable answer.

THE DUKE OF NEWCASTLE said, he heartily concurred in what had fallen from his noble Friend with reference to the value attached to these marks of favour on the part of the Sovereign and of the country, earned by the bravery of our soldiers and of our sailors engaged in war, whether by land or by sea. And he was equally prepared to say that, if ever there was a war which more than another required the incentive of such rewards and distinctions, it was the war in the Cape of Good Hope, where the soldiers were not stimulated by the anticipation of meeting an enemy over whom a conquest would redound to their glory and their fame. The Kafir war was one in which all the horrors of warfare had to be encountered without any glory being achieved as the result. With respect to the question of the noble Duke, there was one point which naturally suggested itself to the mind for consideration—namely, to what extent ought the principle of granting medals and other honorary distinctions to the Army to be carried? He apprehended that there were cases in which it would not be proper to grant medals to the private soldier, even though engaged

*The Duke of Richmond*

in a successful war. He more particularly alluded to a war which partook of a civil character. He apprehended that his noble Friend would agree with him that to award medals to men engaged in a domestic quarrel, however great the sufferings of the soldier might be, would not be expedient or wise. In answer to the question which had been put to him (the Duke of Newcastle) by his noble Friend, he had great pleasure in informing him that it was the intention of Her Majesty that medals should be conferred on the soldiers engaged in the Kafir war. He thought it right to say why the medal had been delayed, and why for a short time longer there would be a delay. In taking Her Majesty's pleasure on the subject, he thought it was desirable that he should have an opportunity of speaking to the commander of that brave army to whose success his own generalship and skill had so greatly conduced—he meant Sir George Cathcart, who was now on his way to England. It was desirable to wait until he (the Duke of Newcastle) had had an opportunity of speaking to that gallant officer on the subject, before Her Majesty's gracious order should be carried into effect. That was the only reason why any delay had taken place.

THE EARL OF ELLENBOROUGH would have been happy to support the opinions of the noble Duke, agreeing as he did in the views which he had expressed on this subject. He rejoiced exceedingly in what had been done, and considered it to be a very well-omened commencement of the administration of the noble Duke.

House adjourned to Thursday next.

## HOUSE OF COMMONS,

*Tuesday, June 27, 1854.*

MINUTES.] PUBLIC BILL.—1<sup>o</sup> Vaccination Act Amendment.

### MERCHANT SHIPPING BILL.

Order for Committee read.

House in Committee.

Clauses 1 to 228 *agreed to*. Clause 229 *postponed*. Clauses 230 and 231 were *agreed to*.

Clause 232 (Entry of offences in the official log).

MR. DIGBY SEYMOUR said, he objected to sailors being called upon to give answers which might criminate themselves. Besides, sailors were generally very illiterate persons, and answers might be inserted for them in the log-book which they had

never given at all. It was not at all unlikely, too, that they might be called upon to make replies at a moment when they were in a state of exasperation, and that an unfair advantage, therefore, would be taken of them. He thought the clause placed the accused party too much at the mercy of those over them.

MR. CARDWELL said, the provision was not a new one. It had been originally enacted as a protection to the sailor, to give him an opportunity of telling his own story, and it had been found to work very successfully.

MR. LINDSAY said, he objected to the clause altogether, as not being calculated to be of any service to sailors.

MR. HORSFALL said, he should support the clause, as rather a protection to seamen than otherwise. The clause directed that the reply was to be taken down in presence of the whole crew, and it should be remembered that the examination need not take place at a moment of excitement, but only at some period before the vessel got into port.

Clause *agreed to*, as were also the following clauses up to 283.

Clause 284 (Rules as to ships meeting each other).

MR. H. T. LIDDELL complained—that the language of the clause was too ambiguous to be understood by sailors.

MR. BENTINCK said, he also thought that great confusion and no little danger would be caused by this clause. He had seen many instances in which, if a captain implicitly obeyed its provisions, he would run the greatest possible risk of losing his ship.

MR. CARDWELL said, the clause had been most elaborately considered by experienced naval men, by high legal authorities, and by the Trinity Board, and he could not, therefore, take upon himself the responsibility of altering it. He would, however, communicate again with the Trinity House upon the subject.

Clause was *agreed to*, as were also clauses up to 288.

Clause 289 (Equipment of steam-ships).

MR. J. O'CONNELL moved the addition of the following proviso:—

“Every home-trade passenger steamer, carrying deck passengers, shall have accommodation in deck cabins or deck houses for women and children coming under that denomination, and, as far as possible, for male deck passengers; and when the numbers to be carried, or other circumstances, prevent the whole number of deck passengers from being thus accommodated, every

such steamer shall have, in the judgment of the Surveyors of the Board of Trade, an adequate supply of tarpaulins in good and serviceable condition, to protect the said male deck passengers during cold or bad weather of any kind, and at night.”

Some provision of this sort was rendered necessary by the misery and suffering of that large number of persons—amounting to not less than 338,000—who, in the last year, crossed the Channel as deck passengers, and more especially for those who crossed in the depth of winter, and were exposed to the inclemency of the weather for fourteen, and in some cases for twenty-four hours on the decks of steamers, without covering or protection of any sort.

MR. H. T. LIDDELL said, the question was, whether the proposition of the hon. Member was made at the proper time and in the right place. The object of the Committee now sitting on the subject of emigrants and passengers was to ascertain in what manner the Passengers Act might be capable of amendment, so as to meet the difficulties and dangers to which passengers are exposed, but the Bill now under consideration was confined to the consolidation of the Acts relating to merchant shipping. He approved of the object of the hon. Member, but thought it most desirable to keep the two matters separate.

MR. CARDWELL said, that on a former occasion he had himself brought the subject under the consideration of the House, believing it deserving of every possible attention. He entirely agreed with the hon. Member for Liverpool, that it was not desirable to introduce the alteration now proposed in the present Bill, which dealt with steam-ships going to all parts of the world. Although deck tarpaulins might be very useful and necessary in vessels sailing between Liverpool and Dublin, it would be extremely inconvenient to make such a provision with respect to vessels carrying passengers across the Atlantic. He thought the object of the hon. Member might be carried out by amending the Passengers Act so as to provide that the accommodation for deck passengers shall not be measured in the tonnage of the vessel.

CAPTAIN SCOBELL said, he considered that the hon. Member for Clonmel did not mean his Amendment to apply solely to emigrants, but to persons also coming over between Liverpool and Ireland.

MR. J. O'CONNELL meant his clause to apply especially to passengers by the

Channel steamers, and what he wanted to secure was a covering for the poorer class of them.

LORD LOVAINE said, he considered the provisions of the Bill would be sufficiently effective, without the addition of any clause, to meet all the necessity of the case.

MR. MAGUIRE thought that something ought to be done, and that quickly, as the cases which had come to his notice were fearful and distressing in the extreme.

MR. CARDWELL said, he considered that the 297th clause of the Bill would meet the wishes of the hon. Member for Clonmel, but he would further consider the matter.

MR. GEORGE said, that he could state from his own knowledge that the proprietors of the vessels alluded to in the discussion would be happy to do all in their power to meet the difficulties of the case; at the same time he must protest against minute legislative enactments on the subject, which, instead of doing good, would only create confusion.

MR. DIGBY SEYMOUR said, he would suggest that a tarpaulin ought to be kept in readiness by all these vessels, to be used when really necessary.

ADMIRAL WALCOTT considered that the case would be better met by defining the number of persons that each vessel would be allowed to carry.

MR. HILDYARD said, he thought it was very foolish to go on making any kind of amendments which were not framed under the authority of those who drew up the Bill, and that we should take care not to endanger the vessel and the crew while we were endeavouring to take precaution for the comfort of a part of the passengers.

MR. CARDWELL could assure the Committee, that he would consider all the suggestions which had been made, and consult nautical authorities on the subject. He viewed with great respect the clause proposed by the hon. Member for Clonmel, and had no doubt but that the hon. Member would be fully satisfied with the steps that would be taken.

*Amendment withdrawn; Clause agreed to, as were also the remaining clauses.*

MR. HORSFALL said, that as there was no hope of prevailing on the right hon. Gentleman (Mr. Cardwell) to agree to it, and as the opinion of the shipping interest was very much divided on the subject, he should withdraw the apprenticeship clause of which he had given notice.

Mr. J. O'Connell

ADMIRAL WALCOTT said, he regretted very much the decision to which the hon. Gentleman had come, for he considered that the apprenticeship system had been of the greatest service to the Royal Navy and to the mercantile service, and he thought the destruction of it was a great loss to the country. He could not sit down without giving his tribute of commendation to the right hon. Gentleman the President of the Board of Trade for the masterly manner in which he had consolidated the laws relating to the mercantile marine. This measure was a most invaluable one, as would be seen more fully after the experience of a few years.

CAPTAIN SCOBELL said, he also regretted the determination of the hon. Member for Liverpool (Mr. Horsfall) not to proceed with the clause of which he had given notice. He felt convinced that the apprenticeship system had been useful to the country, and he was sure the efficiency of the Navy would suffer from the loss of it.

MR. CARDWELL said, he thought it must be gratifying to all—whether opposed to or in favour of the measure which Parliament had passed relative to the apprenticeship system—to reflect that we had manned our fleets without impressment and without bounty, and that nevertheless there was a larger number of seamen employed in the mercantile navy than had ever been employed in it before. This, he was glad to say, was not the result of an increase in the numbers of foreign seamen employed, for, on the contrary, as was shown by a late return, the proportion of foreign seamen in the mercantile marine had very much diminished. The number of apprentices was also on the increase, for while in 1852 there had been 2,675 apprentices registered, the number in 1853 was 3,163, and in the months of 1854 which had already elapsed it was no less than 3,645. It was clear, therefore, that Parliament need be under less apprehension of proceeding in the course which it had adopted on this subject.

MR. HORSFALL said, he must maintain that it could not be correct to say that the number of apprentices had increased, when they were 31,136 in 1850, and only 13,820 in 1854.

MR. CARDWELL said, the figures which he had quoted went to show that they were on the increase from 1852.

House resumed; Bill reported as amended.

THE EASTERN QUESTION—THE WAR  
WITH RUSSIA.

MR. LAYARD: On Friday last, Sir, I gave notice that I should, on Thursday next, submit a Resolution to the notice of the House. At that time I did not pledge myself to any particular words for that Resolution, but in order that there should be no misunderstanding, I stated that my intention was to elicit the opinions of the House with reference to certain language held by the noble Earl at the head of the Government with regard to our present relations with Russia. I understand that, in consequence of that notice, the noble Earl stated his intention to make some explanation of [that language, and that that explanation has been since given; and I trust that it will have the effect of removing from the public mind a very general (what I hope may be called) misapprehension, and of affirming that policy which has been so ably, and in such an English spirit, shadowed forth by the noble Lord the President of the Council, and by the noble Earl the Secretary of State for Foreign Affairs. I therefore think that I shall be acting most in conformity with the feelings of the House if I withdraw my notice, as it was directed against the speech which was the subject of that explanation. But in doing so, I hope the House will allow me to express my conviction, looking to the present critical aspect of public affairs, and especially if the news received yesterday should be true, that before we separate for the recess some discussion should take place in this House on the state of our foreign relations. I do not wish to obtrude myself upon the House by undertaking such a duty; but if nobody else in this House will do so, I shall myself bring the subject forward. I shall proceed in no hostile spirit towards Her Majesty's Government; but it is my conviction, I repeat, that there ought to be some expression of opinion on the part of this House before Parliament prorogues; and I will leave the naming of the day for that purpose to the noble Lord the Member for London.

MANNING THE NAVY—QUESTION.

SIR GEORGE TYLER said, he wished to ask the right hon. Baronet the First Lord of the Admiralty, if it was his intention to bring forward any measure during the present Session, for the purpose of establishing more efficient means for securing a reserve of seamen for manning

the ships of Her Majesty's Navy than at present exist?

SIR JAMES GRAHAM said, he could only state to the hon. and gallant Officer and to the House, that at this moment there were 44,000 seamen and boys afloat and on full pay; that 12,000 seamen and boys had entered the service within the last six months; and that they had succeeded in raising coast volunteers to a force approaching 5,000. Under these circumstances, he was bound to say that he was not aware that any further measure at the present moment was necessary; but it was quite open to the Government to consider the very important question whether the coast guard, who were connected to some extent with the coast volunteers, might not be brought more immediately under the control of the Board of Admiralty, and thus secure the object the hon. and gallant Member had in view.

POLICE BILL—QUESTION.

MR. BRIGHT said, he wished to put a question to the noble Lord the Home Secretary, with reference to his Bill for the better regulation of the police in counties and boroughs. He observed that the noble Lord had seen a large deputation on the subject of this Bill, and the impression was, that the measure would be withdrawn. He (Mr. Bright) saw, however, in a morning paper of that day, that arguments were used in defence of the Bill, and applause given to the noble Lord for bringing it in; and some apprehension was excited that it was not to be absolutely withdrawn. He should, therefore, be glad to know what course the noble Lord intended to pursue with the measure.

VISCOUNT PALMERSTON said, that a deputation waited upon him the other day of persons connected with many of the principal towns in the country, and they stated to him their objections to portions of this Bill. Now, without himself admitting the force of their objections, he could not deny the fact that they existed. He attached very great value to the principle of local self-government; and although he did not believe his Bill infringed that principle, still, if others thought so, that was a material element to guide his conduct in regard to the measure. Though he believed the Bill a good one, he would not consider it rendering a good service to the country to force it upon boroughs against their own will, because great advantage arose from harmonious co-operation be-

tween the local authorities and the Government. Therefore, in deference to their objections, he would certainly withdraw the present Bill, reserving to himself whether he should bring in another measure, omitting those portions to which such strong objections had been felt. He quite admitted that it would be useless to ask the House to read a second time a Bill which was understood to be liable to great modifications in Committee. The best course would, therefore, be for him to withdraw the present Bill, and then consider whether it could be so modified as to make it acceptable to the House and useful to the country. The Bill stood for Friday, and before that time he would be able to determine whether he should drop it for the present Session, or bring in a modified Bill for the consideration of the House.

#### MAIL CONTRACT—QUESTION.

MR. DANBY SEYMOUR said, he wished to ask the right hon. Baronet the First Lord of the Admiralty, whether the Peninsula and Oriental Company have applied to be released from the contract for carrying the mails to India, China, and Australia; and if such be the case, whether he will lay their application before the House, and what course Her Majesty's Government mean to pursue with regard to it?

MR. JAMES GRAHAM said, that the Peninsula and Oriental Company had presented a memorial to the Board of Admiralty, alleging that, on account of the great increase both in the rate of freight and in the price of coals, their contract for the conveyance of the mails to India was a very losing one, and praying to be released from it. The Board of Admiralty had directed an inquiry to be instituted into the facts stated in the memorial; the inquiry was now proceeding, and he trusted that an arrangement might be come to, by which this important communication to India and Australia should be continued.

MR. DANBY SEYMOUR wished to know before whom the inquiry was conducted?

SIR JAMES GRAHAM said, before two accountants, the one appointed by the Company (as we understood) and the other by Captain Austin, who was at the head of the packet service.

MR. BRIGHT said, he understood that the Peninsula and Oriental Company had made an excellent thing of its contract for

some years before, and he wished to know if the inquiry was to be limited to the past year simply, or would extend to the results of the contract to the Company during the whole time it had been in force? This was a matter of some importance, as, perhaps, they might have the Government coming forward to ask for a Vote for the Company.

SIR JAMES GRAHAM said, that if the House was called on for a Vote, he should, of course, feel it his duty to enter into a statement of minute details on the subject. The memorialists set forth their losses, and those would be investigated; but, of course, before coming to a conclusion, the past gains of the Company from the contract would also be inquired into.

#### LAW OF PARTNERSHIP.

MR. COLLIER moved the following Resolution:—

"That the Law of Partnership, which renders every person who, though not an ostensible partner, shares the profits of a trading concern, liable to the whole of its debts, is unsatisfactory, and should be so far modified as to permit persons to contribute to the capital of such concerns on terms of sharing their profits, without incurring liability beyond a limited amount."

The hon. and learned Member said, he entreated the attention of the House for a short time to a question of great importance to the mercantile classes of this country. He was anxious that it should not be considered a lawyer's question, dependent upon mere technical knowledge; there were no legal difficulties surrounding it that could in the least embarrass its consideration by any Member of that House: indeed it was a matter of regret that questions involving law reforms should have been left so much in the hands of lawyers as they had been; he believed the cause of law reform was most effectively promoted by the co-operation of legal and non-legal minds. The law of partnership, as it now stood in this country, presumed that every partner could bind each one of his co-partners to an unlimited extent; and this unlimited liability extended to all persons who received any share in the profits of the concern, although they might not be ostensible partners, or have been dealt with or trusted. For instance, the widow of a deceased partner who received a certain proportion of the profits was regarded as a partner, subject to unlimited liability, as was also the clerk who was paid a salary regulated according to the amount of the profits. It is true that the liability of a

*Viscount Palmerston*

partner might be limited by express notice proved to have been conveyed to every creditor of the concern, but this was scarcely possible in practice. Practically the law prohibited limited liability, and there was no escape from the principle of unlimited liability, unless by an Act of Parliament specially obtained for the purpose, or a charter granted by the Crown through the Board of Trade. The law of this country, in this respect, was peculiar, and at variance with the civil law; this rule of law had not, however, been settled for more than sixty years, when a decision was given, in the case of *Waugh v. Carver*, the propriety of which had been frequently doubted by eminent lawyers. In foreign countries the state of the law was different; for limited partnerships had existed for centuries on the Continent of Europe, called partnerships *en commandite*. These partnerships consisted of certain partners called *gerants* or managers, and certain others called *commanditaires* or contributors of Capital. The managing portion, or *gerants*, were unlimitedly liable; but they had a subscribed capital, to which other persons contributed, who were only liable for the amounts they respectively contributed, the amounts being registered;—so that everybody knew the extent of each man's liability. The *commanditaires*, were entitled to be repaid what they had advanced to the *gerants*, but their claim was postponed to the claims of other creditors. That description was sufficient for his (Mr. Collier's) argument upon this question. The principle of partnership *en commandite* had been early adopted in Italy, and under its operations the great Italian republics, Florence, Genoa, Venice, attained a commercial prosperity which, considering the circumstances surrounding them, may be considered unprecedented in the history of the world. It thence spread to France; it was adopted in Holland; and by its operation many of the great works by which the Dutch had rescued large tracts of land from the sea had been executed. It extended to Germany—to Russia also—and to most other European States; and finally, our transatlantic brethren in the United States, with all their prejudices in favour of English laws, adopted the principle; and the report of the Commission which had been appointed to inquire into this subject, distinctly showed that both in Europe and in America the *commandite* partnership system had, with very trifling exceptions, worked, beyond all

doubt, beneficially. This question had been investigated by two Committees of that House; and the second Committee reported, in the year 1852, in favour of his present Resolution, but they recommended that the matter should be further referred to a Commission. Well, that Commission was appointed, and it had reported. The Commissioners were divided in opinion. Five of the Commissioners reported against any change in the law; but Mr. Bramwell, one of the Commissioners, and a distinguished member of the common law bar, reported most strongly in favour of a change; Mr. Kirkman Hodgson, an eminent merchant, reported likewise in favour of his (Mr. Collier's) proposition; and Mr. Anderson, a third Commissioner, expressed views substantially the same. With this difference of opinion among the Commissioners, thinking it impossible to carry a Bill on the subject this Session, he (Mr. Collier) had considered it most desirable to elicit the opinion of the House upon it by a resolution. Now, in the first place, he said that the *onus probandi* was thrown upon those who maintained that restrictions ought to be imposed upon contracts. If any number of persons, such as A, B, and C, chose, by means of a public register, to announce to the world that they were willing to deal with those who would deal with them upon the terms that each should be liable to a certain amount, or if A, and B, announced that they would hold themselves liable unlimitedly, but that they had a certain amount of capital subscribed by others who would not be liable beyond a certain extent, those who held that they ought not to be allowed to enter into such an arrangement were bound to make out a case why they should not be so allowed. But it was objected *in limine* to such an arrangement, that the principle of unlimited liability was founded upon an unalterable rule of natural justice, viz., that a man who shared in the profits of a concern should bear its losses. Now, if any such rule of natural justice existed, he answered that that rule was violated annually by that House in the case of every railway Bill which it passed, and was violated also every time the Crown, by the advice of the President of the Board of Trade, granted a charter of incorporation to a trading company. But on examination they would find, that all semblance of natural justice vanished from this rule if accurately stated. The doctrine of the present law was, that any person who obtained a share, however

small, of the profits of a concern, must be liable to pay all its debts, however large, whether or not he had any hand in contracting them. Suppose he made a contract with A, and B, and nobody else dealt with them, and trusted them, but found out subsequently that W, the widow of a deceased partner, received an annuity proportioned to the profits, without any share in the management of the concern—was there any principle of natural justice by which he could make her pay a debt which she never contracted, and which he had contracted with others? Again, the same principle of unlimited liability on the ground of a share in the profits, would apply to any person who advanced money to a partnership on terms of receiving a fixed interest, for that interest must come out of the profits; but the law attached no such liability to such a fixed interest, but only to a remuneration varying according to the profits—a distinction in which there was no justice whatever. The true principle applicable to the matter was this, that no man ought to be liable to pay a debt contracted by another, unless he either authorised that other to make the contract, or represented him as so authorised. But it was said, that the commercial greatness of this country had grown under the principle of unlimited liability, and it would therefore be unwise to interfere with it. The truth, however, was just the reverse of this; to what did we owe our railways, canals, docks, fleets of steamers, and all our greatest works? not to the observance, but to the breach of the law of unlimited liability. But for the violation of that law, we should still have travelled in stage coaches, and voyaged in sailing packets. But for the violation of that law, that greatest work of modern art and science, the Crystal Palace, would never have been witnessed. All our noblest monuments, which would attest our national greatness when our race has passed away, attested the working of the principle of limited, and not of unlimited, liability. Again, he asked, could a state of things which gave a preference to a certain class of companies, by Act of Parliament or by charter, and denied the same advantage to all other classes of companies, be defended, and whether it was not desirable to place all on the same footing or at least to give all the power as a matter of right, of limiting their liability by means of a public registry? There was a general concurrence of opinion that the present

*Mr. Collier*

practice of granting charters of limited liability was unsatisfactory. He would read to the House what was said upon this subject by the Secretary to the India Board (Mr. Lowe). The hon. Gentleman, in his reply to the questions issued by the Commission, said—

“I view the terms on which persons choose to associate in business as a matter which they should settle for themselves, and not one which Parliament or the Board of Trade should settle for them. But of all systems, the very worst is surely to forbid limited liability, and then vest in a Minister holding his seat by a Parliamentary majority the power of suspending the law in favour of such associations as he thinks fit. If the law be right, it ought to be enforced; if wrong, to be repealed. I should as soon think of allowing the Secretary of the Treasury to grant dispensation for smuggling, or the Attorney General licences to commit murder.”

The operation of the present law was further attended with this effect, that, practically, there were no safe investments for persons of small capital except in these incorporated partnerships, and the consequence had been an unnatural diversion of capital into this channel of chartered and incorporated companies. To this cause might in a great measure be attributed the railway mania; for people who were not engaged in trade had now no safe and profitable investment of their capital, except in these undertakings. Mr. Porter had given it as his opinion, that from this cause a great deal of money had been invested in foreign railways, which would otherwise have been beneficially employed in the trade of this country. Mr. Hodgson, one of the Commissioners, said—

“This country is now, I believe, almost the only one in which this law of limited liability does not exist. It prevails in all those with which we have the most extended and important intercourse, and this isolation acts very injuriously in many cases to the English merchant. I could mention whole trades which, thirty years ago, were entirely carried on by English houses, in which at the present moment scarcely one is to be found; their places have been entirely supplied by foreigners, who establish branches of their houses here and in the manufacturing districts, while the main establishments (almost all under the *commandite* principle) are abroad.”

A great many enterprises of a beneficial character in this country—such as local improvements, the improvement of the dwellings of the poor, and undertakings of that description—were prevented by the operation of the law. He might refer, also, to the effect of the law on mining companies in Cornwall and Devonshire, and would venture to say that scarcely any prudent man would take a share in a mining com-

pany, because, by the law of unlimited liability, he might have to pay all the debts of the concern. If a man were only to be liable for a certain amount, important additions would be made to the capital of these companies, and the mineral resources of the country would be developed to an extent that was scarcely supposed to be possible at the present moment; but the result of the present state of the law was to leave such companies mainly in the hands of adventurers who had nothing to lose, and encourage speculation of the worst and most ruinous description. A law such as was recommended by the Resolution would also have the effect of enabling men of capital to assist men without capital, but possessing ability, honesty, and industry, to set up in trade, and, in process of time, to become capitalists. He had been informed by more than one Member of the House engaged in commercial transactions, that, but for this rule of unlimited liability, he would be glad to assist many an enterprising workman, but he was deterred by the present state of the law; all the capitalist could do was to advance money at a certain fixed rate of interest, which very often the workmen could not pay. It was desirable that a retiring partner might be at liberty to leave a certain amount of money in the business from which he was retiring without being haunted by the fear of unlimited liability, and that women, and other persons, not capable of actively engaging in trade should possess safe channels of investment, which were at that moment closed against them. It was said, by way of objection, that great injury would arise from the proposed change to various classes of society. Now, if any one were to be injured, it must be either the partners themselves, their creditors, or the public. As to the effect on the partners—if he were to enter into partnership with A B on the terms of advancing 1,000*l.*, and participating in the profits, he wanted to know who would be injured by that? He could not be injured in the first place, for his liability would be limited; and A B was not injured, to whom he lent the money, because it was more to the advantage of A B to pay him out of the profits, when he could afford it, than to pay him a fixed interest, whether he could afford it or not. In the next place, the creditor did not require to be protected, because it was more for his advantage that the money should be advanced by a partner, than that it should be

lent at a fixed rate of interest; in the former case it was assets of the firm, in case of their failing, in which he shared: in the latter it was a debt of the firm subtracted from their assets; moreover, he was not bound to trust parties trading under limited liability, unless he liked. He might either confine his dealings to those who traded under unlimited liability, or he might charge an additional profit to cover the increased risk. With regard to the interests of the public, the Commissioners stated, that it appeared to them that the benefit to be acquired by the system of limited partners would be at the expense of a more than countervailing amount of injury to the trader bearing the burden of unlimited liability, and who would have to enter into competition with those who were enjoying the benefits of limited liability. But, with the greatest respect for the Commissioners, they had in that paragraph shown, he would not say ignorance, but a total disregard of the first principles of political economy, it was the old anti-free-trade argument over again, that one class was entitled to be protected against the rest of the community, but he knew no reason why capitalists should be protected more than the landholder, or any other class of the community. If concerns trading under limited liability succeeded, it would be because they could supply the public more cheaply than at present; if they failed, no injury could be done to the fair trader as he was called. There would be nothing to prevent persons from carrying on their business with unlimited liability. Limited liability would be adopted by some, and unlimited liability by others; the latter had certain advantages in their favour, and there would be a fair competition in the open market between the two. Every one of these arguments of justice, of convenience, and of protection, entirely failed when they came to be investigated. It was said that a change in the law would be injurious to the commercial credit of this country, but he did not see why this result should follow;—it was a confusion of ideas to think that the operations of a limited company would affect the credit of an unlimited company. The last argument which the supporters of the present law could resort to, was that, probably, in a poor country with little capital, the principle of limited liability ought to be adopted; but this country was rich enough, and the principle did not apply

here. He would venture to say that the hon. Member for Meath (Mr. Lucas), who had given notice of moving an addition to the Resolution, would not say such an argument was applicable to Ireland; but, if applicable at all, it was one applicable to this country also; and he wanted to know when we were to be considered rich enough to render the application of such a principle unnecessary? He did not understand that it was possible for a country, in an economical point of view, to be too rich; and why a principle, which in one state of its progress would have the effect of developing its resources, should have an opposite effect in another, he was unable to discover. It devolved on the opponents of the principle to show why this change of effect should be produced. That was not the opinion of that high authority on political economy, Mr. John Stewart Mill, who was strongly in favour of the *commandite* principle, and who stated that no man could consistently condemn that principle without being prepared to maintain that it was desirable that no one should carry on business on borrowed capital, confining business to those who had already accumulated capital or inherited it, which was manifestly absurd. He (Mr. Collier) believed that the effect of this proposed change in the law would be to cheapen capital; in fact, he looked upon it as tending to an increase of capital, which could not by any possibility injure any one but the very great capitalists who had an interest in the monopoly. No doubt, if such a change were made, it would be desirable to have a public registration, and various provisions for protection against fraud, but those were matters of detail which he would not now discuss. He had endeavoured, as briefly as possible, to state the law of this country as compared with that of other countries, and he might venture to say, in conclusion, that he had great faith in the operation of the principle of unrestricted competition, a principle not less clearly demonstrated in theory than it had been verified by experience. On every application of this principle, prophecies of the most gloomy character had been falsified, while anticipated benefits had been realised beyond the most sanguine expectations; on the removal of each restriction, our commerce had bounded forward with an elasticity apparently immeasurable and infinite. In conclusion, he believed that the change proposed would have important social bearings, tending materially to di-

*Mr. Collier*

minish the distance between capital and labour, interests sometimes apparently opposed but in reality always identical; and that it would be socially, politically, and economically beneficial.

VISCOUNT GODERICH seconded the Motion with pleasure, because he believed the principle involved in it was one which, if adopted by the Legislature, was calculated to confer great benefit upon the country, and especially because he believed it would be consistent with the whole course of their recent commercial legislation. Under the present state of the law there existed a double system of monopoly, enjoyed on the one hand by the great capitalists, who were alone able, in consequence of the system of unlimited liability, to enter into trading companies; and, on the other hand, a smaller description of monopoly which of recent years had been devised by the Legislature in order in some degree to correct the evils engendered by the former monopoly, and which consisted in the power possessed by the Board of Trade virtually, though nominally it rested in the Crown, of granting charters to such companies as it chose, which charters were accompanied by special privileges which the law refused to other companies engaged in the same branch of industry. He confessed he was at a loss to understand how hon. Gentlemen could stand up in that House and support the existing condition of the law in that respect who had been the consistent opponents of all other monopolies, who in former days were consistent freetraders, and who had passed a large portion of their lives in advocating the right of persons engaged in commerce and industrial pursuits to conduct their own affairs in the manner they chose. He knew that those who most objected to the proposition of the hon. Member for Plymouth (Mr. Collier) also objected to the powers which were now vested in the Board of Trade; but while he agreed with them that those powers were most objectionable, he could see no means by which the necessity of the existence of those powers could be got rid of, except by the adoption of that system recommended by the hon. and learned Member. No one could deny that certain undertakings would be altogether impossible if it were not that means were found for altering in their favour the law of unlimited liability. The cases alluded to of railway and other great commercial and industrial companies, the objects of which

were so gigantic that they could not be carried out at all without such an alteration, required special consideration; but then arose the question of whether it was right or just to grant privileges to companies formed for the accomplishment of these great undertakings which they denied to others of a smaller character, but which were framed on commercial principles as well as the larger ones. He knew it might be said the great companies were formed to carry out works of great public utility; but it appeared to him that there were other persons to be considered in this question besides the public, and the House ought to judge how far it was consistent with sound principles or with common fairness that they should deny to any body of men in this country, because the objects for which they wished to unite were not of a vast, transcendent, and important character, the right to combine together for commercial and industrial enterprises in any manner that might appear to them fit, provided sufficient guarantees were taken against fraud on their part. In the present day and under the existing circumstances of the country every opportunity ought to be afforded for the combination of the three elements of skill, labour, and capital that could be devised. It was a great evil to retain upon the Statute book any law that tended to keep these elements separate from one another, and the object of our legislation should be to facilitate their union and bind them together by the ties of a common interest. But this, it would not be denied, the existing law of partnership effectually prevented. He could instance this by a circumstance that came within his own particular knowledge. A friend of his, of great scientific attainments, after considerable labour and much thought, made a discovery by which he believed he should be able greatly to cheapen an article in large and general consumption. In the experiments required for the perfection of his discovery he expended all his little capital, and by the time he had convinced himself, and was able to produce the fruit of his labours to others, and demonstrate the truth and accuracy of his discovery, he had no further means to proceed with it so as to bring it into general notice. In his anxiety to obtain the means of coupling his skill, knowledge, and industry, with the capital of other persons, he applied to several capitalists, when he was invariably met with an answer of this nature—"If I enter into

partnership with you under the existing state of the law, in the first place you will be able to bind me and all the members of that partnership in any manner you please; and, in the next place, I shall be liable for the debts of the concern, to use a common expression, to my last acre and my last shilling. I cannot, therefore, enter into partnership with you on those terms, and the law will not permit me to advance a small portion of my capital to carry out the discovery on the condition of appropriating the profits—half to your skill and half to my capital. The only alternative, therefore, would be to lend you the money, but, as I am not certain your discovery will be attended with success, I could not afford, on account of the risk, to lend it, except at a very high rate of interest." The result in this case was, that the invention had been rendered useless, the discoverer lost all benefit to himself, and the public lost the benefit which might have accrued to it from the discovery. It might be well conceived that a succession of such cases must prove a great evil. The present system tended to lock up capital by preventing persons retired from business investing any portion of their money in the concerns of trade in which other parties participated, and thus to impoverish the country by withdrawing from it a portion of its circulation. The only resource was to put it into banks or the public funds, where it was not so actively employed in the production of wealth. His hon. and learned Friend (Mr. Collier) had drawn attention to the case of foreign countries; but he did not mention the fact, that all the foreign firms whom the Commissioners had written to had, with one exception, given their testimony in favour of the working of the system of limited liability in their own country. Some of them might have said they were unable to judge what might be the effect of an alteration of the law in this country, but, with the exception of Messrs. Hope and Co., of Amsterdam, they had all expressed their approval of the system. He was quite sensible of the many advantages conferred by large capitalists and monopolists upon the country; but surely they, of all persons in the world, were the least entitled to the protection of the House, where commercial, industrial, and social advantages were to be derived from an alteration in the law of this nature. Not only were these great commercial and industrial advantages to be derived from the alteration advocated by the hon. and learn-

ed Member for Plymouth, but he was also strongly inclined to think that great social benefits would spring out of it, because the alteration of the law would tend to remove an obstacle that now existed to carrying out and exemplifying that community of interests which ought to bind together all classes, but of the advantages of which, unhappily, those classes were not sufficiently aware. Not long since a person largely engaged in commercial affairs, who was well known to the House, while speaking on the subject, expressed a fear that, if such a change should take place, workmen might save up their money, enter into partnership, and compete with the manufacturers, and he wondered that Mr. Cobden and Mr. Bright did not move in the matter. However that might be, he was sure the hon. Members for the West Riding and for Manchester would be the last to object to the measure on such grounds as that, believing that they were willing to extend to every class, and especially to the operative manufacturers, a fair stage and no favour. But, if Gentlemen of commercial experience entertained that opinion, there could be no doubt it extended among the working classes themselves, and that they looked with little favour upon those laws which prevented them from combining for industrial purposes, although, probably, in some cases, if they did they would meet with results they very little expected. He considered it was unwise on every ground—social, political, and economical—that the House should maintain restrictions which were felt by them to be obnoxious, unless there were grounds of overwhelming public necessity in favour of their maintenance. On a former occasion, when this question was before the House, the hon. Member for South Lancashire (Mr. W. Brown) spoke of the higher character of our commercial firms, and of the greater credit that was afforded to them in the market of the world, than was afforded to those of France; and he said that the reason was, that in England we had a law of unlimited liability, whilst in France they had a law of limited liability. Surely the hon. Gentleman must either have forgotten or purposely overlooked many other important differences—differences which affected far more than any law of partnership the respective credit of the two countries. Did he forget that France had had, within the last seventy years, no less than six revolutions, whilst we had had none? Did he forget the difference between the security

*Viscount Goderich*

of property which must exist in a country so subject to political change, and that which existed in a country such as this? Did he forget the difference, of which we might justly be proud, between the industrial character of Englishmen and the industrial character of Frenchmen? He (Viscount Goderich) hoped Her Majesty's Government would, therefore, consent to the Resolution, or that the President of the Board of Trade would at least state that, if he could not agree to it at this moment, he had not made up his mind upon the question irrevocably, and that he would be prepared to consider it, and give due weight to the great authorities in favour of a change. The Commissioners stated that they had taken the opinions of sixty-nine persons in England, Ireland, and Scotland, thirty-seven of whom expressed themselves decidedly in favour of a law of limited liability, while some of the remaining thirty-two were of opinion that a considerable change should be made in the existing law. He thought, therefore, that the House would do well to review their legislation upon this subject, and to adopt a system which had worked satisfactorily in those countries in which it had been established, and which he believed would tend to bind together the various classes of the trading and commercial community.

Motion made, and Question proposed—

"That the Law of Partnership, which renders every person who, though not an ostensible partner, shares the profits of a trading concern, liable to the whole of its debts, is unsatisfactory, and should be so far modified as to permit persons to contribute to the capital of such concerns on terms of sharing their profits, without incurring liability beyond a limited amount."

MR. CARDWELL said, his hon. and learned Friend the Member for Plymouth (Mr. Collier) had brought before the House, with his usual ability, a subject which certainly excited great interest in this country; and therefore he (Mr. Cardwell) would readily answer the appeal which had been made to him by his noble Friend (Viscount Goderich), and would state that he was willing and anxious to consider fully all the arguments which were presented to the House in the report that had recently been laid upon the table. The Committee which had sat to consider this question for two successive years had abstained from reporting any positive opinion to the House, but had recommended the appointment of a Commission, composed of men possessing great legal and commercial knowledge, in order to pursue an inquiry into the de-

tails of the subject. He certainly understood that it was the bounden duty of those to whom the report of that Commission was made, most carefully and most respectfully to consider it in all its bearings and in its fullest application; and of this he was quite sure—that when full time had been given for the consideration of the report, and when it should be right to take any course with regard to the alteration of the law of partnership, no objection would be made to a change in the law on grounds antagonistic to the principles of unrestricted competition. He was sure, if any proposal were submitted to the House with the view of improving the law of partnership, they would not be told that it was necessary for the protection of great capitalists that restrictions should be imposed upon the application of small capital. He was sure it would not be argued, that any system which impeded the welfare of industrious young men should be continued for the protection of those who, having been more fortunate in life, had greater advantages at command. When the subject was ripe for consideration, the only question would be, what was the mode by which free competition might be most effectually promoted, by which social improvement might most advantageously be advanced, and by which the rights and interests of scientific and ingenious men who effected improvements might best be secured? He thought that upon this, which he might call the free-trade ground of the argument, they might be assured no objection would ever be made to an alteration of the law, but the only question would be how the law ought to be framed with the view of accomplishing the important objects to which he had referred. He would, in the first place, ask the House to consider what the law of this country actually was upon the subject under discussion—for he doubted whether the true bearing of the existing law was distinctly known to those who were most anxious that it should be altered. It was quite true that with regard to partnerships, as at present regulated, there was a general presumption of agency—in other words, the general presumption was, that when persons were engaged in partnership in trade, every one of those partners was intrusted by his colleagues with a power to bind the others in their commercial transactions. That was a general presumption as a matter of evidence; but were persons therefore prohibited by the

present law from entering into engagements by which they might limit their liability? The law did not prevent them from doing so, but permitted individuals to enter into arrangements, as between themselves, regulating their liabilities precisely in such proportions as they thought right. The present law also permitted a partnership to make contracts with other persons, restricting their liability as a partnership by contract with the persons who became their creditors to a limited object. This was not a mere inoperative power, but one constantly carried into practice by many of the large companies in the City of London. The point in which the law of this country differed from that of many foreign States was this—that we had not established by legal enactment those modes of creating a presumptive notice of partnership and liability which existed in foreign countries. In many of the United States of America there were laws, commonly known as the laws of *commandite* partnership, the effect of which was that, by complying with certain regulations, persons were deemed to have given notice to all the world of the nature and limitation of their liabilities. In France a system existed, similar in its general principles, but differing in its details. With regard to Ireland, there was an Act of the Irish Parliament which enabled persons engaged in trade in that country to limit their liabilities. The object of the Commission had been, by obtaining evidence from America, from France, and from other countries, and the opinions of those persons in this country who were best qualified to form a judgment upon such a question, to ascertain whether or not it was desirable to establish in this country, by legislative enactment, a mode by which a presumption of limitation of liability should be created. The question for the House to consider, in dealing with this subject, would therefore be this—what would be the effect of certain specific provisions for this purpose, and would they be calculated to operate for the advantage of the community or not? It would be necessary to consider what the operation of such a law would be upon persons who had not received actual notice of the limitation of liability. They had been told by the hon. and learned Gentleman that the evidence from America was altogether in favour of an enactment which would establish a presumptive limitation of liability. He must admit that as the Report, which was a document

of considerable magnitude, had only been in his hands for a week, he had not been enabled, in consequence of his other engagements, to make himself acquainted with its contents so far as to justify him in pronouncing an opinion upon them. The Committee of 1851 obtained remarkable evidence of the value of this law of limited liability in the United States of America. They had before them the American Secretary of Legation, who was then resident in this country, and who gave strong evidence in favour of the existing law in America. He observed, however, that that Gentleman appended to his printed evidence, as a note, the following statement which he had not an opportunity of making to the Committee—

"Since my examination I have seen a Statute enacted since I left America, by which stockholders in a bank stopping payment are made liable individually to redeem all unpaid bills issued by the bank, in proportion to the stock they respectively held at the time when the bank stopped."

He (Mr. Cardwell) was not going to attempt to draw from this statement any conclusion adverse to the proposition before the House; but he had thought it right to call their attention to the note appended by Mr. Davis to his evidence. The hon. Member for Meath (Mr. Lucas) had given notice of his intention to move a rider to the Resolution before the House, calling attention to the particular demands of Ireland with regard to the limitation of liability. As he (Mr. Cardwell) had previously stated, a law had for many years been in force in Ireland of which persons might avail themselves, if they pleased, for the purpose of limiting their liabilities, but that it had not been made use of to any extent. He might be told that persons had not availed themselves of that law in consequence of the manner in which it was framed; but, so far as he was aware, no one had ever come forward with any specific proposal for the amendment of the law. He thought the inquiry of the Commissioners might furnish the House with information which they had not hitherto possessed with respect to this Irish law; and they might depend upon it that, in order to legislate satisfactorily upon such a question, to confirm the credit and to expand the industry of the country, the best course was, not to approach the subject until all the materials were so fully before them that they would be enabled to guard the community against any dangers which might be involved in a

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change of the law. He had read the opinions of the different Commissioners, and among them the elaborate argument addressed to them by one of their own body, Lord Curriehill, who thought that neither on the ground of convenience to persons engaged in partnerships *en commandite*, or to others, nor on the free-trade ground, could the change in the law proposed by the hon. and learned Member for Plymouth be recommended for adoption. With regard to the argument, that natural justice was involved in this question, the great authority of Mr. Mill had been cited; but he (Mr. Cardwell) thought he could show that persons who were well known as high authorities upon free-trade questions were entirely divided in opinion upon this subject. Mr. Tooke stated, in his evidence before the Committee of 1837, that a notion seemed to prevail that something like a right existed on the part of persons to circumscribe their liabilities as the condition of their embarking a certain sum in trade, and that it was only by the special interference of the law of partnership that they were prevented from exercising that right; but he said it must be obvious that partnership *en commandite* was a privilege, and had not the shadow of foundation in natural right; indeed, not only eminent lawyers, but also eminent political economists, viewed the question altogether apart from free trade, and only as to its effects upon contracts and dealings with persons having no knowledge of the arrangements of partnerships. The Report of the Commission had been for so short a time before the House that it was scarcely possible any hon. Members could have made themselves conversant with the contents of the volume. He had only had time to ascertain the general nature of the Report, and he observed that there was considerable difference of opinion among the witnesses examined by the Commissioners. They had been informed by the noble Viscount that sixty-nine witnesses were examined, of whom thirty-seven were in favour of a change in the law, while the remaining thirty-two did not entertain the same opinion. He (Mr. Cardwell) considered that, before the House resolved to alter the law, they should know what was the nature of the changes to be proposed, in order that they might not assent to enactments which might be prejudicial to the community. He did not think any hon. Gentlemen in that House who were favourable to a change in the law had come

to a conclusion as to whether it was desirable to adopt the law existing in America, or that which was established in France, or an amendment of the law in force in Ireland. He might say, however, he thought it was clear that the Irish law would not prove acceptable to those who were desirous of a change. It would be necessary, in dealing with this subject, to consider many cases which involved great difficulties. Suppose a person with a limited capital embarked in a speculative concern, in which the gains might be very great, but in which the losses might be very disastrous to himself or to others—if such a concern became insolvent, who was to bear the loss? Was it proposed to say that the liability of such a person should be limited to the small capital he had embarked in the undertaking, and that, if he had obtained large credit, the disastrous consequence of his failure should fall upon his creditor? Suppose that during four or five years the parties had derived very large profits from their speculation, and that, when the concern was wound up, it appeared that such profits ought to be brought into account, what course was to be pursued? By the American law, in such a case the profits would be brought into account, but it had been a moot question among those in this country who desired a change in the law of partnership, whether such profits should be brought into account or not. He found a difference of opinion prevailed on this point among the thirty-seven witnesses examined before the Commission who, it was said, were favourable to an alteration of the law. Another question was, whether the names of all shareholders in a concern ought to be registered in order to afford security to the creditors. He found that some of the witnesses thought there should be an open register, while others entertained a contrary opinion. Another question was, supposing a concern was unprosperous, and 25 or 50 or 75 per cent of the capital had been already lost, ought the undertaking at such a juncture to be wound up for the protection of the creditors? This was a question of great importance and difficulty, and he found that the witnesses differed materially upon the subject. In short, among these thirty-seven witnesses there was every difference imaginable as to the nature and extent of the security to be taken for the protection of the public. He submitted, then, that it was the duty of the House of Commons to master these

difficulties, and to have a definite opinion on these questions before they came to a final decision on the subject. When he turned to the other class of witnesses—those who had given an opinion against any change in the law—he found they were persons of the very highest authority in such matters, and whose views, therefore, must be regarded with the most respectful consideration. The House would admit that such evidence as that of the Commercial Association of Glasgow, of Lord Overstone, of the hon. Member for South Lancashire (Mr. W. Brown), was of very great weight. This was by no means a new subject, for it had been considered by Committees of the House in 1837, in 1844, in 1850, and again in 1851. Up to the latter year the Committees had come to no decision on the point now in question, and the only specific suggestion made by the Committee of 1851 had reference to a system of loans in the nature of limited partnership, the interest receivable upon which should be in proportion to the prosperity of the concern. That Committee, however, recommended the appointment of a Commission, of adequate legal and commercial knowledge, to consider not only a consolidation of the existing law, but also to suggest such changes in the law as the altered condition of the country might require, especial attention being paid to the important and much controverted question of limited and unlimited liability. The Commission appointed in pursuance of that recommendation exactly fulfilled the conditions required of adequate legal and commercial knowledge, for it was composed of the Master of the Rolls in Ireland, of Mr. Justice Cresswell, of Lord Curriehill, of Mr. G. Bramwell, Q.C., of Mr. J. Anderson, Q.C., of Mr. Kirkman Hodgson, a director of the bank, of Mr. Thomas Bazley, President of the Manchester Chamber of Commerce, and of Mr. Robert Slater. These most eminent persons, after elaborate inquiry into the subject intrusted to them, had reported that they had—

“Been much embarrassed by the great contrariety of opinion entertained by those who have favoured them with answers to their questions. Gentlemen of great experience and talent have arrived at conclusions diametrically opposite; and, in supporting those conclusions, have displayed reasoning power of the highest order.”

As the result of their deliberations upon these so various views, the Commissioners, by a majority of five out of eight, reported—

"In considering this subject, the question which appeared to Your Majesty's Commissioners of paramount importance was, whether the proposed alteration of the law would operate beneficially on the general trading interests of the country? and they have arrived at the conclusion that it would not. They have not been able to discover any evidence of the want of a sufficient amount of capital for the requirements of trade; and the annually increasing wealth of the country and the difficulty of finding profitable investments for it, seem to them sufficient guarantees that an adequate amount will always be devoted to any mercantile enterprise that holds out a reasonable prospect of gain, without any forced action upon capital to determine it in that direction; while any such forced action would have a great tendency to induce men to embark in speculative adventures to an extent that would be dangerous to the interests of the general commerce of the country."

The Commissioners thus summed up—

"In concluding their brief Report, Your Majesty's Commissioners feel that, although the details of our mercantile laws may require correction, yet while there is on every side such abundant evidence of satisfactory progress and national prosperity, it would be unwise to interfere with principles which, in their judgment, have proved beneficial to the general industry of the country."

A sixth Commissioner (Mr. Anderson), though not joining in the Report, separately records his opinion in favour of unlimited liability. Two of the Commissioners, on the other hand, were in favour of *commandite* partnerships. This variance of opinion on the part of the Commissioners was quite within the precedent of one of the earlier Committees, as appeared from their Report—

"The opinions of those who must be considered as best able to form an opinion on this difficult and important question are at variance; by far the greater number of those who have been examined are decidedly unfavourable to its adoption under any circumstances whatever. Among those opposed to the measure will be found Mr. Samuel Jones Loyd, Mr. Thomas Tooke, Mr. Larpent, Mr. Horsley Palmer, Mr. Kirkman Finlay, and Mr. Gladstone; while Lord Ashburton, Mr. J. W. Norman, the Hon. F. Baring, and Mr. Senior have expressed opinions favourable to its adoption."

When on the part of persons so eminently qualified to form opinions, and who had sought the opinions of others of high authority, there was such difficulty and such doubt and such diversity, the House should take the utmost care thoroughly to master all the information which had been procured for its guidance ere it proceeded to take any decisive measure upon so important and so intricate a subject. With regard to the recommendation made by the

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Commissioners, that a change should be effected in the manner of granting privileges of limited liability by means of a charter, he quite concurred that some such change was expedient. He hoped the House would be of opinion that he was but discharging his duty in abstaining from arguing the question on either side. He had on all occasions, since in office, endeavoured so to exercise the invidious power vested in him of granting such charters as to keep the subject clear for the deliberation of Parliament, when it should come under discussion. It was unquestionable, as the Commissioners suggested, that natural justice demanded that where these charters were sought persons who conceived they might be injured by the grant should have the opportunity, at a reasonable cost, of stating their objections. The whole question of joint-stock companies required the grave consideration of Parliament, and this question of limited liability would occupy an important feature in such an inquiry. The recommendation of the Commissioners that the usury laws should be revised had been adopted by the Chancellor of the Exchequer, who had a notice of a Bill on the subject on that day's paper. There was no doubt, as his hon. and learned Friend had so eloquently pointed out, foreign States had prospered under a system in the particular respect under consideration different from our own, but at the same time it must be borne in mind that under the system which prevailed here our own country had attained a degree of commercial prosperity, of commercial credit, and of commercial stability wholly unexampled in the history of the world. When the House should have maturely considered the opinions which, in their Report, had been procured for its use, it would be in a position to take a decisive course upon the subject; then, should that course involve a change in the present system, the change, he should hope, would be presented to their notice, not in the desultory form of an abstract Resolution, but in the definite and authoritative form of a Bill so cautiously, so carefully, and so conclusively framed that, once adopted as a Parliamentary Act, it would tend to enhance our commercial prosperity, and to consolidate our commercial credit, on the bases of, if possible, increased security and increased confidence.

MR. LUCAS said, he was desirous of submitting to the House the Amendment of which he had given notice, specially

extending the effect of the Resolution to Ireland, because he was anxious to draw the attention of Government and of the House to the circumstances which made the application of this principle peculiarly expedient in Ireland; and whatever weight there might be in the right hon. Gentleman's (Mr. Cardwell's) opinion that the matter was not ripe for decision as to Great Britain, there was certainly no occasion for any delay in applying the principle of limited liability to Ireland, where it was eminently required by the industrial and social condition of that country. The result of the inquiries of the Commission whose Report was now before them was most favourable to the principle now contended for; for it appeared that in every quarter of the globe where the principle of limited liability was known, it had been established by the sanction of the law, with the exception of the United Kingdom and its dependencies. Lord Curriehill in his evidence stated that the principle of limited liability had been tried in Ireland, and had failed there; now, it could not possibly have failed there, for it had not been tried—and it was finding such a preposterous statement in the Report of one of the Commissioners that had in part induced him to give notice of an addition to Mr. Collier's Motion. The Commissioners, hostile as they are to the principle of limited liability, have collected a great deal of evidence, and the result of it is decidedly favourable to the principle which they condemn. They admit that the evidence from foreign countries is unmistakeably favourable to limited liability wherever it has been tried. In Great Britain a numerous majority of witnesses is on the same side; and the Irish witnesses are all but unanimous in favour of limited liability. Out of six Irish witnesses who had expressed their opinions on the subject, five were in favour of the law of limited liability. All of these declared their opinion that if the change were adopted, capital would find advantageous means of investment which were at present not open to it, and would thereby add materially to the prosperity and well-being of the country. Mr. Bristow, of Belfast, was the only adverse witness, and the legitimate deduction from his evidence was, that he thought the principle of limited liability was a proper one to be adopted in three out of the four provinces of Ireland. Lord Curriehill said the experiment had been already established in Ireland by an Act of the Irish Parliament of

1782, and that it had failed. So it had, but why? Here was a paragraph on the subject from the evidence of Mr. Kennedy, of Belfast, who said—

"The Irish Act, passed in 1782, is a dead letter; its provisions are so loose, and have been interpreted so illiberally by our courts of law, that no lawyer would advise his client to take advantage of the Act. One of these provisions is, that the anonymous partner can only withdraw the half of his profits, no matter whether or not the concern is in debt. This entails a serious loss on the acting partners, as it is usual in a firm for each member to receive interest upon the sum he has paid up; and, besides, the firm may not require this additional capital in its business. Another provision is, that it cannot discount bills with its surplus capital; and, if the concern sells by retail, or breaks bulk in any way, the limited partners become accountable and lose all the advantages of their position. Traders should be left free to deal in whatever way their interest may dictate."

What, then, was the meaning of the assertion that the experiment had been tried in Ireland, when it had only been tried by an Act so badly drawn by the Legislature, or so badly interpreted by the courts of law, that it could not be made available without considerable risk? In arguing this case as regards Ireland his course had to be somewhat different from that of the hon. and learned Gentleman who moved, and the noble Lord who seconded, the Motion with such ability. They had to reply to the arguments and overturn the authority of the witnesses who oppose limited liability. He (Mr. Lucas) had no such opposition to deal with. Not only the friends, but the opponents of limited liability are in favour of that principle as regards Ireland; and what he had to do—putting aside the logic and the authority of the friends of limited liability—was to bring before the House the admissions of its opponents. The Commissioners had had to find a reason why a law which had succeeded everywhere else should not succeed in Great Britain; and their argument uniformly was, that there existed in this country sufficient capital and sufficient enterprise under the present system, and that the law of limited liability would apply an improper and unnecessary stimulus to speculation. The first and main reason stated by the Commissioners in their Report was—"They have not been able to discover any evidence of the want of a sufficient amount of capital for the requirements of trade." Was this, however, the case with regard to Ireland? Most unquestionably not. No man could say there

was a sufficient amount of capital or of speculative spirit in Ireland. Lord Curriehill, in his Report, said—

"The circumstances of this country in reference to commercial matters are in some respects very different from those of these other countries. In France and other European countries where *commandite* partnerships have been introduced, capital is less abundant, and the spirit of commercial speculation is far less active than is the case in this country; and therefore a factitious attraction of capital to commerce may be sound policy there."

Mr. Slater, another Commissioner, gave testimony to the same effect. He said—

"Partnerships *en commandite* are doubtless well adapted for countries where capital is not abundant, and where it is of importance to call into action the dormant energies of a people whose industry has been laid prostrate by means of political events."

With a very slight change of phrase, did not this apply to Ireland? But the adverse witnesses are not less clear upon this point than the adverse Commissioners; and he (Mr. Lucas) was happy to have to select particularly those adverse witnesses whose authority the President of the Board of Trade rated so very highly. Thus Lord Overstone and Mr. W. G. Prescott have given a very elaborate joint opinion hostile to limited liability. But what do they think of it as applied to such a country as Ireland? These are their words—

"Some caution, we think, may be requisite in applying to the legislation of this country lessons derived from the experience of other countries differently circumstanced."

"There may be a great difference between the effects of a law introduced in the early stages of a community—when its transactions are few and simple, and the trading habits of the people not firmly settled, and therefore capable of easy adaptation to the law whatever it may be—and the effects of the same law, when introduced into a community at a later period, under exactly the opposite circumstances."

If Lord Overstone and Mr. Prescott had had Ireland in their view at the moment of writing this, it was impossible that they could have used language more applicable to the case of that country. Then, again, Mr. S. Gurney said—

"In those countries where commerce is in its infancy, and capital scarce, a law limiting responsibility to capital actually advanced may be expedient. Under such circumstances it may attract capital and foster commerce. In this country, where there is abundant capital and abundant commercial talent and energy, such limitation is not called for."

The Chamber of Commerce at Glasgow declared that they considered the circumstances of Great Britain to be so materially

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different as to destroy any analogy between them and other countries, and they went on to say—

"With an 'exuberance' of capital, and a tendency to speculative investment, which is not deterred by the present law of unlimited responsibility from embarking in all sorts of hazardous schemes—when noblemen, and professional gentlemen, and tradesmen, and farmers, and ladies engage in mines and ironworks, and marine insurance, and banks, and exchange companies, and shipowners, assuredly the disposition to invest capital in business requires no additional stimulus."

Similar opinions were expressed by many other of the gentlemen who had forwarded their views to the Commission. Other witnesses are these—Mr. James Freshfield, jun., solicitor—

"Other exceptions may exist in a state of society, or in countries where capital is scarce and cannot be easily procured. Banks could hardly be established in the Colonies without a limit of liability, and associations for other trading purposes will be found to need encouragement in the Colonies on this ground; but in England capital for all legitimate purposes is over abundant."

Laurence Robinson, cashier of the Royal Bank of Scotland, Glasgow—

"I am not acquainted with the operation in Ireland of the Act of Parliament here quoted; but I can easily conceive how the poverty and insecurity of property in that country may, in the year 1782, have created a necessity for limited liability in certain undertakings for the accomplishment of which sufficient enterprise and capital could not then be found, but which, at the same time, could form no precedent for the application of similar measures in Great Britain, especially during the present era of superabundant capital for all legitimate purposes."

Mr. Bellenden Ker has been quoted by the right hon. Gentleman—and is esteemed, I believe, by every succeeding Board of Trade—as a great authority. His elaborate Report changed Lord Brougham's opinion some years ago, and it therefore deserves particular attention. In his reply to the Commissioners, Mr. Ker reasserts, though with diminished confidence, the opinions hostile to limited liability which he gave before the Committee of 1850. He (Mr. Lucas) was, therefore, justified in quoting his opinion given in writing to the Partnership Committee of 1851. This is the first paragraph of his reply to the queries circulated by that Committee—

REPLY TO QUERIES BY H. B. KER, ESQ.

"Lincoln's Inn, 27th June, 1851."

"My dear Sir—With reference to the question you have sent to me, I beg to observe that I venture to think that the limited liability, as regards ordinary trading partnerships, or even as regards 'the aiding useful local enterprises,' is inexpedient, as I am led to believe there is always a sufficiency

of capital for all ordinary commercial enterprises, and for the carrying out what I suppose to be meant by local enterprises—namely, canals, roads, mills, &c. In a country where there is not a sufficiency of capital for such purposes, the introduction of this would be beneficial, and it is mortifying to see that no one will bring the matter before Parliament, as regards Ireland."

Lord Brougham, whose opinion was modified by Mr. Ker, drew precisely the same conclusion in writing to the same Committee. He says—

"The *commandite* appears better adapted to a community which has moderate mercantile capital and concerns than to ours, and would be more wanted as well as more safe in such a community."

And, lastly, he must quote Mr. Bristow, of Belfast, the only Irish witness hostile to the principle, but who yet admits that to three-fourths of Ireland it may be suitable—

"In a new country whose resources are undeveloped, and where capital is scarce among trading people, it may be expedient to modify, for a time, this principle; but in an old country, with a wealthy and enterprising class of merchants, such modification should be unnecessary."

Thus of all the adverse witnesses those entitled to most weight agreed that to a country like Ireland limited liability may apply. There was only one witness who distinctly stated an objection fatal, if it were sound, to this principle in Ireland as well as in Great Britain. This objection was alluded to by one or two other witnesses, but it was distinctly stated by Mr. Clarke, of the house of Finlay in Glasgow, and he (Mr. Lucas) gave it in his own words. Mr. Clarke is of opinion that in point of fact capital is not "hoarded" or "locked up," and that, therefore, there is no capital either in Ireland or in England which a law of limited liability could set free—

"It seems to me that a general fallacy lurks in the argument on the other side, which assumes that capital remains unemployed, deterred by the apprehensions of its owners, in respect of unlimited responsibility; whereas I am of opinion that no more capital than is necessary as a reserve remains on the average idle, but is loaned out productively for industrial undertakings or mercantile operations, and is thereby as effectually engaged in the business of society as if every man were directly devoting his own quota of it to individual effort."

In my answer to the first question, while giving my second reason for the conclusion at which I had arrived, I stated my conviction that it is fallacious to suppose that capital remains unemployed. What is true of the employment of capital in this country is true also as respects the colonies of England, because it is only in countries and places where property and life are insecure, where war and rapine are normal conditions,

that hoarding is prevalent—a state of things happily unknown here for many generations."

This is an argument which, though weak and unsound, deserves an answer, and the first answer he (Mr. Lucas) gave in the words of Mr. Kennedy—

"I am satisfied, if we had a proper limited partnership law, a large amount of capital that is now invested in continental stock and railway shares would be invested in this country, and that it would make the increase of our imports from Britain as important as her exports are at present to the Continent, and likewise enable us to add largely to the revenue of the empire."

This was his first answer to Mr. Clarke. It was no satisfaction to him that Irish capital was not hoarded if its employment was in England and on the Continent, and not at home, where it was most needed. But there was another and a more conclusive answer. The best capital of every country is not money capital, but the skill and industry of its inhabitants; and if your laws are such as to dissuade from industry, to put a check on the energies of the people, to take from them the proper stimulus to exertion, and thus to encourage indolence—then it might with strict logical accuracy be said that the capital of the country is "hoarded," is "locked up," and is restrained from a full and profitable application. This really was the state of the case as regarded Ireland, and they had a right to ask from the Imperial Legislature, considering the state of poverty and exhaustion to which Ireland had been reduced, her want of commercial resources, and the fact that her population was flying at every outlet from her shores, that laws should be passed enabling Irish capital to be spent in Ireland in the most profitable way in which it could be spent for the interests of Irish industry and trade; and he asked them to give to the industry of the country that protection which would enable every man to apply his best exertions to develop the industrial resources within his reach, and suitable to the locality in which he resided. From his own personal experience he could testify that the existence of the present law prevented industrious persons from being as industrious as they would be—prevented prudent persons possessed of a little capital from applying it prudently and profitably to the encouragement of commercial enterprises of various kinds in their own localities—prevented one class from being industrious, and others from being prudently enterprising in commercial matters. Nobody could deny that the case was complete as regarded Ireland,

and he did not see the slightest difficulty in laying down the main branches of alteration which were required in the Irish law. In the first place repeal the absurd proviso which compels a partner to be content with half his profits during the continuance of the partnership. Then repeal the clause which forbids limited partnerships to have retail as well as wholesale transactions. Then withdraw the obstacle which the Act places in the way of discounting bills where the ordinary course of trade requires and sanctions such accommodation. Abolish the limitation of 1,000*l.* which is fixed as the minimum of capital for such partnerships. Such changes as were necessary for making this law productive of the greatest possible benefit to Ireland were very simple, and he hoped this debate would not end without some one on the part of the Government giving the industrious people of Ireland reason to hope that the law on this subject would be so amended that it would no longer interpose between the desire for honest industry and commercial wealth and the possibility of attaining those ends.

Amendment proposed, at the end of the Question, to add the words—

“And such modification is especially necessary in Ireland, regard being had to the peculiar social and industrial condition of that part of the United Kingdom.”

Mr. COBDEN agreed with the right hon. Gentleman the President of the Board of Trade, that the subject of limited liability was one which had not been thoroughly discussed, and which deserved to be debated in that House. But it was a subject which there would be great difficulty in discussing unless they heard both sides; and all he could learn of the views of the right hon. Gentleman was, that he told them when he began he would not offer an opinion, and he contrived very ingeniously to keep his word. With reference to the observations of the hon. Gentleman who had addressed the House specially in reference to Ireland as regards this question, he thought the case of Ireland was, after all, much the case of England. There was no law of England which forbade commercial transactions taking place under a contract of limited liability; on the contrary, the law would enforce contracts made on that principle, provided only certain conditions were observed; but then the particulars necessary to be observed had the effect of clogging the entering into such transactions, and

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of rendering it impossible to carry on business upon that system. It was admitted there was nothing in the system of limited liability that was contrary to public morality; for if there were, the law would refuse to enforce such contracts altogether; and as the law enforced those contracts, he took it for granted that the spirit of the law was favourable to limited liability, and what they had to do in that House, whether with regard to Ireland or to England, was to address themselves to consider in what manner the restrictions which the law imposed upon commercial transactions conducted on the system of limited liability, and rendered therein impracticable in the working, might best be remedied. He would put the case of two persons, A and B, who entered into partnership. A was the moneyed, and what was called the sleeping partner, and he put 10,000*l.* into the hands of B, who was the manager and working partner. Now, if the partnership, in giving orders for goods, or in the different mercantile transactions in which they were engaged, were to give a written notice that A was responsible to the extent of 10,000*l.*, and for no more—if that written notice were repeated in every transaction, then no creditor could have a claim upon A for more than that amount. But under such a condition as that every transaction of the partnership must be accompanied by a written notice; it would be impossible that the firm could carry on their business, and they would be involved in the pitfalls of the law at every turn. The object of the law was, apparently, to take care that the creditors of A and B—that was to say, of the man who sold the goods—should know exactly that A was responsible for only 10,000*l.* It was, in fact, the same in principle with an ancient law which existed among their Saxon forefathers in the kingdom of Kent, which provided, for the sake of there being witnesses to the sale, that no bargain should take place in the market unless in the presence of the bailiff, the mass priest, or the lord of the manor. The law of limited liability was an act of precisely the same supererogatory character, and he believed that at no distant time the law of limited liability would appear as absurd to their descendants as the law of Kent did to them. What was the ground on which it was required that they should maintain this restrictive law? It was said to be necessary for the protection of the capi-

talist and trader. But were hon. Gentlemen afraid that such persons would give credit indiscriminately, and without first ascertaining the circumstances of the persons with whom they had transactions. Now did they require as much publicity in the case of professions? Take the case of a barrister. His hon. and learned Friend who introduced the Motion had been admitted to practise as a barrister, by having his name enrolled in one of the inns of court. Now did the law require that he should carry the certificate of his enrolment about with him, that he might thrust it in the face of everybody who might want his services? Did not everybody know that by going to the inns of court, and inspecting the register, they could satisfy themselves whether he had been properly enrolled or not? And did not the House think that they might, with just as much safety, alter the law to this convenient extent, that there should be one general registry, where every case of partnership should be bound to register the fact that, while B was the acting partner, and was responsible for his dealings to the extent of all that he possessed, A was responsible only for 10,000*l*. For his part, he thought that the argument against a law of limited liability was founded on this fallacy—that people possessed of capital were too easily induced to give credit, and that the law must therefore take care of their interests. Why, the capitalists, the men who had money at their disposal, were the shrewdest people in the world—men whose intellects were stimulated and sharpened by that conservative principle which attached to the possession of property. Were they to be supposed to be in a condition where they could not be trusted with the management of their own property? Why, in proposing to provide for their safety by fixing the principle on which they should give credit, this House never was engaged on a work of greater supererogation. Take the case of a large house with extensive dealings. Everybody knew that it was one of the most delicate, one of the most responsible, and one of the most incessant occupations of the most trusted partners or managing men of the firm to ascertain the trustworthiness of everybody with whom they opened an account, and to keep watch upon their solvency from month to month, as indicated by the regularity of their payments and by other symptoms, to note all down in a book kept for the special purpose, and to do all this

with the ingenuity and the art, he was going to say, of an officer of the detective police. If these men trusted their affairs to Acts of Parliament in these days of competition, they would not be long in a condition to trust anybody. There was another fallacy which seemed prominent upon this subject, for the question was often argued as if the persons who were in favour of a system of limited liability were about to pass a law which would force people to trust those firms established on that principle of partnership. Nothing of the kind was contemplated. They never intended, by any Act of Parliament, to force the creditor to do business with the firm of A and B. They would leave to all parties their right of free action, to trust the firm or to pass it by as they chose. But then they were told, in some of the arguments used in the blue books, that partnerships established on the principle of limited liability would not obtain credit. Well, then, the law would be inoperative, and would do no harm. It was also argued, and, he believed, universally maintained, that the credit of such partnerships would be inferior to that of others. He did not admit that; he believed that credit depended upon skill and industry, and the known amount of capital in the business. He did not mean to say that a house with only 10,000*l*. of capital would have the same amount of credit as a house with a capital of 100,000*l*.; but he believed that for the same amount of capital there would be the same extent of credit as under the present system. In reading the evidence contained in the blue book—and he could conscientiously say that he had read every word of it—he was forcibly struck with one feature it presented. He found that the questions proposed by the Commissioners were generally addressed to men in business who were of the large capitalist class—men of weight on 'Change—leading men in mercantile associations and chambers of commerce; and yet of such men not above half were unfavourable to the principle of limited liability. But he would be bound to say that if they took another class—the class of young men who were engaged as clerks or shopmen in houses of business—of whom there were, he believed, in London alone, no fewer than 100,000—he doubted if they would not find in them a unanimous feeling in favour of the principle of limited liability, which was the principle that afforded them the best chance

of entering into business on their own account, and of making their way in the world. If they went to the class of mechanics and artisans, they would find them all but unanimous in favour of an alteration of the law. He confessed that it was in that point of view, which had been so eloquently and so feelingly dwelt upon by his noble Friend the Member for Huddersfield (Viscount Goderich)—it was in that point of view that he took the greatest interest in the question. It was stated before the Committee of 1851, by Mr. Wynn Ellis, formerly a Member of this House, and who had a large wholesale warehouse in London, that there were several occasions when he would have liked to enter into limited partnership with young men who were then standing behind the counter—young men of talent and promise, but without capital—but that he was deterred from doing so as that would involve the risk of his whole fortune in the undertaking, but that he would have done so if he could have limited his liability; and he (Mr. Cobden) had no doubt that it was matter of every-day occurrence in London, Manchester, Leeds, and elsewhere, where capitalists would like to assist young men who showed aptitude for business—who ingratiated themselves with their employers' customers—who made themselves, in fact, almost indispensable to the houses in whose business they were concerned—where capitalists would like to join themselves to these young men, and give them the chance of a start in life, provided they could do so without involving their whole fortune in the risk. It was the same with the persons employed for wages in the manufacturing concerns in the north of England. But the law of unlimited liability was an insurmountable obstacle which prevented this from taking place; and therefore, if the system were to be continued, there should be some cogent reason shown for its continuance. What were those reasons? In reading this blue book, he had been surprised to find men with whom he formerly acted in advocating sound economical opinions, now giving utterance to the most erroneous sentiments, and urging them with so much feebleness of argument. He found in these persons a constant tendency to embark in predictions, which, in his opinion, was the invariable sign of a weak cause. Whenever men began to argue in the future tense—when they talked of what would, could, should,

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or might be—he was certain to find that this was because there was a total want of support from existing facts. Then they were told that this system of limited liability might do very well in painstaking France, in frugal Holland, and in moral Germany, but that it would never work in this country, where there was abundance of capital. Now he could not understand this. Political economy was not a plant that flowered only in certain climates and latitudes. If there was truth in the principle, it was applicable to all countries and to all times. But the obvious answer was this—if the system did not suit this country, it would not be adopted. All he asked for was a permissive, not a compulsory law. If it did not suit England after the trial had been fairly made, then everybody would be satisfied, and no harm would be done. Neither could he subscribe to the doctrine which was sometimes laid down, that this country was doing very well, and that they ought to let well alone. Such a doctrine was adverse to all progress and to all reform for the future;—he could not understand such an argument coming from the mouths of men who were the champions of economical and social reform. He must say, once for all, that this was not a question to be referred to the arbitrement of any one class;—he did not think that any class could be trusted to legislate in favour of its own interest, for it generally mistook its own interest. Take the case of the shipowners, and the repeal of the Navigation Laws:—when was navigation in a more prosperous state? When were ships better employed than at present? Take the case of the Corn Laws: land was never higher—farmers were never more prosperous. And yet if these parties had had their way, there would have been no repeal of the Corn or of the Navigation Laws. And so it was with the capitalists, many of whom were afraid that a law of limited liability would injure capital. He could not understand this feeling at all, because a law of limited liability could not benefit any one if it did not benefit the capitalist. He could not imagine anything more suicidal on the part of capitalists than to oppose this proposition, which would afford new and hitherto unthought-of openings for their capital. It was no answer to say that capital was already easy enough of access. Men of genius and invention did not find capital easily obtained. The law interposed difficulties in the way; it would

not allow of the free marriage of capital and skill; it forbade the banns by the law of unlimited liability. It was because he thought it one of the social blots in this country that capital had such a tendency to accumulate in great masses and in few hands—because he believed that the removal of the present law would tend to remove that blot, and tend to diffuse capital—because he thought it would tend to bridge over the gulf which now divided different classes, and to diminish that spirit of alienation between employers and employed which they all deplored—that he hoped that the Government would, either to-night or on some future occasion, give their sanction to the change proposed in the Resolution of his hon. and learned Friend.

MR. MALINS said, that on the present occasion he had the satisfaction of concurring in almost every expression that had fallen from the hon. Member for the West Riding, and thanked the hon. and learned Member for Plymouth for having brought the subject forward. A question of greater importance than the present, affecting the commercial well-being of the country, he believed it would be difficult to bring under the consideration of the House; and he ventured to predict that the period was not distant when the principle of the present proposition would be carried into effect. He quite agreed with the President of the Board of Trade that every Member ought duly to weigh the evidence laid upon the table of the House before pledging himself one way or the other; but he regretted to perceive that the bent of the right hon. Gentleman's mind was adverse to the alteration in the law. He (Mr. Malins) had formed his opinions on the subject, not from theory, but from extensive observation of the great mischief arising from the present state of the law, which was not creditable to the country. No one objected that two parties ostensibly carrying on business should both be liable for all their undertakings; but the law was in an anomalous state if one of the partners was a secret one, though with ever so small an interest, for if a person gave credit to one partner only, and if, after having delivered his goods, he found that there was another, he might call upon him to pay to the utmost farthing of his means, though he had trusted the firm not knowing that such person was a partner. The Legislature day after day gave the protection of limited liability to railway and dock com-

panies by particular Acts of Parliament; and he thought no one could object to give the same facilities to private partnerships which they were every day giving to public partnerships. Some advance had been made in the matter, for they had passed the Joint Stock Registration Act. When that Act was passed many persons thought that a limited liability was created; but it had been decided on appeal in the Court of Chancery, that that Act had not established the principle of limited liability. He would ask the House, if with reference to great undertakings the principle of limited liability were permitted to be applied, upon what ground was it that the Legislature should hesitate to enable all persons—not under an absolute, but under a discretionary law—to establish limited liability for themselves, care being taken that due notice should be given to the public of the terms upon which these partnerships had been framed? Let them consider for a moment the calamities which had resulted from the operation of the law with respect to partnership as it at present stood. Frequently persons of genius had been unable from want of capital to render their inventive talents serviceable to the country. Really, the anomalies of the existing state of things were such as to make one blush for the state of our law on this subject. Let them look at the numerous instances in which persons were induced to join particular companies upon the understanding that the principle of limited liability existed with respect to the transactions in which those companies happened to be engaged, and yet afterwards found out to their cost that no such principle prevailed. The general provision of the law upon the subject was, that any persons who were associated together for any commercial purposes, and participated in the advantages of the business in which they were engaged, became liable to the debts in which, in the pursuit of that business, that firm might become involved. But the question was one with respect to which many and great anomalies existed. Take the case of a number of gentlemen associated together in a club. One would suppose that, according to the general principle of the law with reference to the subject of limited liability, the members of the club generally would be held responsible for the debts incurred by the committee of the club for the supply of provisions. [An Hon. Member: Such is the case.] He did not wonder that the hon. Member

should be of that opinion, inasmuch as it was one entirely in accordance with the general principle of the law upon the subject. He could, however, inform the hon. Member that it had been decided that it was only the members of the committee of a club who were held to be liable for the debts which they might have incurred with tradesmen on behalf of the members generally. Now, in order to induce a fact in proof of what he had just been saying, he should state, that in the case of a club in St. James's Street, in which establishment a nobleman who was well known to the public had been an active member of the committee, it was found that debts to the amount of 40,000*l.* had been contracted upon behalf of its members. It had been supposed that the members generally were liable to the payment of their proportion of that debt, and an application had accordingly been made to Vice Chancellor Bruce for an order to wind up the affairs of the club. That order had been made; but it had afterwards been reversed upon appeal to the Lord Chancellor, and ten or fifteen members of the committee had been made liable for the whole amount. Now, he would ask if that were a proper state of the law? It was well known to the profession to which he belonged—and it was probably equally well known to the House—that day after day cases occurred in which utter ruin was the consequence of the investments made by parties in commercial transactions, supposing those transactions to be carried under the operation of a principle of limited liability; when suddenly, perhaps, through the reckless conduct of the directors, the concern broke down and involved all engaged in it in ruin. In the town of Newcastle-upon-Tyne there had been in existence some time since a company, denominated "The Newcastle-upon-Tyne Banking Company," with whom large sums of money had been invested upon the faith of the principle of the existence of the law of limited liability; and the consequence had been that an order for winding up having been made, all parties engaged in the transaction had been to a great extent ruined. A still more recent case was that of the Monmouth and Glamorganshire Bank, where the people believed their money was as safe as in the public funds when it was invested in a joint-stock bank, and only found out their mistake when the bank broke down and involved them in ruin. Was this a state of things that ought to

*Mr. Malins*

last? For whose benefit was it? Some said it was necessary for the protection of the creditor; but it was rather for the destruction of the creditor. Business was never well conducted unless it was conducted with prudence and foresight; and a man ought to be induced to give credit only where he saw the likelihood of repayment from a business being well and prudently managed. But under the present system credit was given to a company, because the creditor, after scanning the list of shareholders, was able to pick out 50 or 100 men from whom he knew he could extract every farthing of his debt, whether the undertaking flourished or fell. Was that, he would ask, a state of things which, in a national point of view, it was desirable should exist? They all knew that there were numbers of reckless creditors, and that the system which they adopted could not fail to be a national injury. In the discussion upon the Oxford University Bill—the arguments which had been put forward to prevent expense from being incurred by the student, because of his being *in statu pupillari*, went to the extent that it was desirable to place more restriction upon the principle upon which credit generally was given. His own opinion was, that the system of recklessly giving credit was most injurious, and that considerable advantage would result from the adoption, upon the part of tradesmen, of trusting with their money those persons only whom they deemed to be in possession of the means of meeting their demands. He must say that he thought the whole argument that evening against the principle of limited liability had failed. He was satisfied the period had passed when such a system as the present could be maintained, and he, therefore, entertained the most sanguine hope that the state of the law would speedily be altered. The right hon. Gentleman (Mr. Cardwell) had shown considerable hesitation on this occasion; but why should there be any hesitation in advancing upon a question like the present? If there had always been this backwardness, how much slower would have been our progress in those commercial changes which had been effected by the House! He trusted, therefore, that during the recess they were approaching the right hon. Gentleman would apply the powers of his mind to this question, so as to be able at the commencement of the next Session to give them an assurance that he was prepared to introduce a change. If he did so, he

was certain that, in that House at least, he would have no difficulties to contend with. In conclusion, he trusted that the House would, on the present occasion, accede to the Motion of the hon. and learned Member for Plymouth, and show its willingness to remove the existing absurdities of the law, leaving the public in their own way to settle all these matters for themselves.

Mr. GLYN said, that as he had been a Member of a Committee which was appointed in the year 1851 to inquire into this subject, he was anxious to address a few words to the House before the discussion should be brought to a close. He was not one of those described by the noble Lord (Viscount Goderich) at the commencement of the debate, who desired to maintain the monopoly which was supposed to exist under the operation of the present law, and he had for some time considered the whole system of commercial jurisprudence in this country to be in a most anomalous and unsatisfactory condition. But although he had attended that Committee with an eager desire to find, if it should be possible, some remedy for a system which he thought required amendment, he should confess that neither in the evidence produced at the time, nor in the Report lately laid before the House, had he met with anything which could lead him to believe that, however desirable it might be that certain changes should take place, they were as yet in a position to decide how these changes ought to be effected. It appeared to him that the Report presented to the House was deficient in many respects, and was not, in point of fact, one which could form the basis of legislation upon that subject. He would remind the hon. Gentleman the Member for the West Riding of Yorkshire (Mr. Cobden), who had also served upon the Committee, that although he (Mr. Glyn) agreed with him in most of the views he had laid down, he had omitted, and the Report had also omitted to touch upon that particular point which had been the source of the greatest difficulty to the Committee, namely, the possibility of preventing that fraud which, under a system of limited liability, would inevitably occur. He said inevitably, because, from the evidence taken before the Committee given by those most favourable to the system of limited liability, and by foreigners well acquainted with its working, that that system afforded great facilities for fraud. The consequence had been

that in those countries where the principle of partnerships *en commandite* had been carried to the greatest extent, and particularly in France, it had been found necessary to give the bankruptcy laws an extremely penal character. Now, our bankruptcy laws were of a much less rigorous description. In the year 1849 certain changes had been made in those laws, which gave to them a more penal character than they had before possessed; and the result had been that since that period the laws had become so odious that the Bankruptcy Court was at present almost entirely deserted. What, then, would be the case if they were to render the bankrupt laws still more stringent, as every foreigner who had given an opinion upon the subject said that they must do in the event of their adopting the system of limited liability? He believed that the only remedy against fraud which had been suggested by the witnesses could not, in that case, be carried into practical operation. The Report, however, did not even notice that circumstance. He appealed to the hon. and learned Gentleman who had last addressed the House, whether the state of the bankruptcy laws was not a most material ingredient in the discussion of that question, and whether, before they had received evidence upon it, the President of the Board of Trade could venture to introduce a measure for the alteration of the law of partnership, as was urged by hon. Members? He felt persuaded that until they should have further considered the only remedy against fraud which had been suggested under the proposal before the House, it would be worse than folly on their part to accede to that proposal. There were other points connected with the question which would also, as he thought, require very attentive consideration before any decided step should be taken in the matter. It was all very well to argue the question merely as it affected partnerships in trade and joint-stock companies; but it should be borne in mind that in this country the system of credit was unlike that which prevailed in any other country. A large portion of the business in the manufacturing districts was conducted by means of bills of exchange, circulated from hand to hand, with endorsements bearing an unlimited liability; and the fact was, that if the change in question were adopted a material alteration must be effected in the whole of our commercial jurisprudence. He did not throw out these observations

for the purpose of defending the present law of partnership, for he believed that that law required considerable alteration. But as one who was largely engaged in commercial pursuits, and who knew by experience the frauds daily practised in those pursuits, he was anxious that they should enter into the discussion of that question with the fullest knowledge of all the facts connected with it, and with a desire to obviate the difficulties by which it was surrounded. He had certainly no wish to delay longer than necessary those alterations in our present commercial system, which, if they could be safely made, would prove of decided benefit to the commercial relations of this country.

MR. J. G. PHILLIMORE hoped the House would not be led away by the plausible speech of the right hon. Gentleman the President of the Board of Trade, or by the ingenious arguments of the hon. Gentleman who had last addressed them. The right hon. Gentleman had told them in the language, or rather, he might say, the cant which was so often adopted in a certain portion of the House, that the subject was not yet ripe for decision. Not ripe! As if they were dealing with a law that had not been incorporated into the mercantile code of every other country in Europe, from the earliest period down to the *Code Napoléon*. That law had raised the old Italian Republics to the height of prosperity which they had once enjoyed; it had covered the Atlantic with ships, and New England with monuments of industry, and yet they were told by the right hon. Gentleman to go and study the blue book. He (Mr. J. G. Phillimore) knew, from the very constitution of the Commission, that its Report would be as flimsy and self-contradictory as they had been told that it had proved; and, therefore, when he was asked to attend as a witness he had merely sent word that he had seen no reason to alter his former opinion. All parties must see the great importance of showing the working classes that they really took a deep interest in their welfare, and were ready to afford them the means of raising themselves in the scale of society by the force of their own moral energies. For what would the working classes think if they saw the advantages possessed by men of their own rank in America continue to be denied them in this country? With the results of this principle in America, and with ancient experience, confirmed by modern, as to the benefit to be

r. Glyn

derived from it, had not the lower classes a right to ask the House to carry out the principle which would effect for them such important changes? When the hon. Member (Mr. Glyn) said that the bankruptcy laws in foreign countries, especially in France, had been made more penal and stringent, in consequence of the adoption of the principle proposed, he had forgotten that in France these laws were rendered necessary, not by the *société en commandite*, but by the *société anonyme*, which was of a far more speculative and dangerous character. Every application that was made to the right hon. Gentleman to get rid of the necessity for unlimited liability in exceptional cases proved the present unsatisfactory state of the law, which deprived the poor man of those opportunities of benefiting himself which every one must desire to have, and which it was most desirable that every one should have. Adam Smith had said that a joint-stock company was an excellent thing, because it enabled men of small capital to take part in great enterprises; but he said it had one fault, for it did not make the persons of large capital take a sufficient interest in its affairs. But the *société en commandite* possessed all the advantages of a stock company, and avoided that fault; for, while the non-active members were liable only to the extent of their capital, the people at the head of the concern were responsible to the last shilling they possessed. They had thus the same means of associating men of small capital, and they had also a sufficient guarantee for the integrity of the managers.

MR. F. LEVESON GOWER said, he would not venture to trespass long on their patience, but he trusted to receive the indulgence the House always extended to a new Member, while he made a few observations upon this subject, which was one in which he felt the deepest possible interest. He agreed in the main with nearly every speech which had been delivered this evening with the exception of that of the President of the Board of Trade, which he might call a neutral speech, and that of the hon. Gentleman near him (Mr. Glyn), which, however, he was gratified to observe, was not characterised by that spirit of hostility which was displayed by some of the opponents of any change in the law of partnership. He admitted that, if machinery could not be devised that would secure societies established on the principle of limited liability from being tainted with

fraud, such societies could never prosper in this country; but he was not of opinion that such machinery could not be introduced. He believed that the interest which the country took in this question was spreading and growing every day; and that not only would the Report which had been just published be read with attention, but also the arguments which accompanied it—the two, as it struck him, pointing at a very different conclusion. He was somewhat astonished at the conclusion at which the Commissioners had arrived—it was founded neither on the principle of protection nor upon the principle that the Government was a better judge of the interests of private individuals than those individual themselves, but their chief argument seemed to be, that there was no evidence to prove the want of a sufficient amount of capital for the requirements of trade. Now, he believed that trade was always varying, that it varied according to the capital of a country, and that the proposed change was calculated to increase that capital. He had read the opinion of Lord Overstone that limited liability could not by possibility increase the capital of the country. He (Mr. F. L. Gower) asked the House with diffidence, whether they could agree with such an opinion? Surely, if a law of limited liability held out inducements to men to lay by, instead of spending their incomes, it must thereby increase the capital of the country; and it was likewise notorious that a great amount of capital was now invested abroad because limited liability did not exist in this country. A short time ago he was anxious to invest a small sum of money, and he was advised to invest it in a foreign society, so as to have the benefit of limited liability. He had no doubt that similar advice was frequently given, and, therefore, the introduction of limited liability would materially increase the capital of the country. It must also be considered that limited liability made the capital of the country more effective, which would be tantamount to increasing it, and he could not therefore understand the view which was taken by Lord Overstone. If it increased the capital, it would, of course, increase the trade of the country. The only other practical objection that had been made to the change was the encouragement it would give to speculation. He believed that the present age was tending towards association—that the great things which might be effected by means of association were


now, for the first time, being appreciated—and he therefore thought it was the duty of every legislator to endeavour, to the utmost of his ability, to have the principle of association carried out by prudent, instead of inconsiderate men; but by the present law prudent men were driven away from association. Lord Overstone, in his evidence, said that a man would now look twice before joining in an undertaking, the failure of which would cause his entire destruction. He went further than Lord Overstone, for he contended that that man was no better than a madman or a gambler who would risk his whole fortune or means of existence in an undertaking in the management of which he could not have a share; and therefore, notwithstanding an association might hold out the greatest prospect of success, no prudent, cautious man would wish to join it in the present state of the law; this was one of the principal reasons which rendered a change desirable. The question which the right hon. Gentleman had put to the proposers of the measure was rather an unfair one, because, although it was easy for those who wished things to remain as they were to be unanimous, unanimity in those who proposed an alteration was difficult to be obtained. He thought that, if two or more persons joined themselves in partnership upon any conditions they thought fit, the only thing the law had to do was to secure the publicity of those conditions, and no partnership would succeed unless they were such that credit would be given to the undertaking. Having now stated his opinions upon this subject, he would assure the hon. and learned Gentleman who had brought it forward that, if he persevered in advocating a change in the law, he would always find in him a zealous supporter.

MR. DIGBY SEYMOUR thought that in three very material points the President of the Board of Control had made great and important concessions—namely, with regard to the questions of notice, of special loans, and of charters—for which the advocates of limited liability ought to feel grateful. Upon the general question, he would call the attention of the House to the opinion which had been expressed by Mr. Whitworth in his Report upon the Industrial Exhibition of New York. Mr. Whitworth said that limited liability produced very beneficial results in facilitating the introduction of new inventions and manufactures, and in causing the investment

of capital by educated artisans, and thereby regulating the relations between employers and employed. It seemed to him that in these times, when we were ready to encourage every work tending to improve the condition of the working classes—such as model lodging-houses, baths and wash-houses, and the like—it was important that the humbler classes should be enabled to invest their earnings in works of a nature that did not involve the risk of ruining themselves and families. On all these grounds he supported the Motion; and he thought this discussion would, at least, have the good effect of showing that it was admitted that our present partnership laws were a disgrace to the jurisprudence of the country.

MR. KENDALL observed, in reference to a remark which had been made by the hon. and learned Member for Plymouth, that Cornish mining was subject to certain stannary laws, by which a man could at any time, without consulting his partners, withdraw from the partnership and release himself from liability. He, therefore, denied that prudent persons would not be willing to risk their money in Cornish mines.

MR. W. BROWN said, he had always been ready to adopt any measure which could be advantageous to the middle classes, and therefore wished to state his reasons for the course he should take on the present occasion. He should be exceedingly sorry to see anything done to impair the credit of the country, believing that such a course would inflict great injury upon the humbler as well as the higher classes. This very question had been debated for three days in the Liverpool Chamber of Commerce, and the result was a vote of 107 in favour of limited liability, and 209 against it; being pretty much the same conclusion as that come to by the Royal Commissioners in their Report. When money was lent to railroads, banks, and large establishments of that kind, there was a visible security in the shape of the property belonging to the company; but in other descriptions of partnership there was nothing to look to at all but the individual partners themselves. His conviction was decided that it would be injurious to the interests of the country to adopt, in the present state of the information upon the subject, a system of limited liability in partnerships.

MR. SOTHERON regretted that the hon. and learned Member for Plymouth  
 Mr. D. Seymour

had not brought the subject under consideration in such a form that the result of the debate might have been in some measure of a practical nature. It seemed rather to degrade the character of a legislative assembly to discuss abstract propositions of this kind as if they were a mere debating society. If the hon. and learned Gentleman, instead of inviting the House to discuss an abstract proposition, had asked for leave to bring in a Bill for the purpose of giving a legislative sanction to loans of money on the principle of *com-mandite*, a really practical and desirable object might have been attained, and a great deal of apprehension which the Motion in its present state excited would have been saved.

THE ATTORNEY GENERAL, appealed to the hon. and learned Member for Plymouth not to press the Resolution to a division, and said, he felt that he made the appeal with greater force when he fully and frankly admitted that he was a decided friend to the principle the hon. and learned Gentleman was desirous of laying down. This was not the first time it had been under consideration in that House, a Report having been recently made which was founded on a considerable body of evidence upon the subject. There was no object, however, to be effected in carrying an abstract Resolution, and if a measure were to be introduced upon the question, it would require great consideration, in order to afford safeguards for the prevention of fraud. He put it to his hon. and learned Friend whether his object was not fully answered by the discussion which had already taken place, and which had served to elicit the opinion of so many hon. Members? It would be really useless to carry this abstract Resolution, and it must now be clear to the hon. and learned Gentleman that the question was one not only deserving the serious consideration of the House and of Her Majesty's Government, but that it would receive their most serious consideration.

MR. NAPIER said, he had been much instructed by the discussion which had taken place on this important subject, and he thought it had served a very good purpose. His opinion had been throughout in favour of limited liability. His chief motive for rising was to express his astonishment at the terms in which the hon. and learned Gentleman (Mr. J. G. Phillimore) had spoken of the Report of the Commissioners on this subject. Remem-

bering who were the learned persons composing that Commission—that included among them were the Master of the Rolls for Ireland and Mr. Justice Cresswell—he must say he could not remain silent when he heard the hon. and learned Gentleman characterise the Report of those gentlemen as a flimsy production.

MR. J. G. PHILLIMORE explained that he had said it was a one-sided Report, and that he did not call it a flimsy Report.

MR. NAPIER said, the Commissioners, of all persons in the world, representing as they did England, Scotland, and Ireland, were the last to be suspected of making a one-sided Report. Considering the vast importance of the question, and that it came now rather prematurely before the House, he thought that more could hardly be expected than that it should be ventilated by a full discussion. Under these circumstances, he entirely concurred with what had been said by the Attorney General, and hoped the hon. and learned Member for Plymouth would not press his Motion to a division.

VISCOUNT PALMERSTON wished to add his request to the hon. and learned Member for Plymouth not to press his Motion to a division. He thought, with the right hon. and learned Gentleman who spoke last, that he ought to be satisfied with the expression of opinion in favour of his proposition which had been elicited, and which had certainly been more general than often happened. Nobody could deny the importance of the question brought under the consideration of the House. It was one on which, no doubt, great differences of opinion existed, and as this division of opinion existed, a Commission was appointed upon the recommendation of a Committee of the House to inquire into the matter. That Commission had only recently reported, and he was sure the House would feel that Her Majesty's Government would not be acting properly if they were at once to rush to a conclusion without giving to the Report of the Commissioners that consideration to which it was undoubtedly entitled. It could not be expected that the Government should be prepared at the present moment to declare the result to which they had come, or were likely to come on the question at issue; and he thought it would be hardly fair to tie the hands of Government, or to induce the House to come to an abstract Resolution on a matter of so much importance, without maturely considering not only the

recommendation of the Commissioners, but the evidence given before them, and enabling the Government to prepare the opinion which they might think it right to submit to the House on the subject. He was quite sure, at all events, that the House would give Her Majesty's Government credit for great anxiety to correct those defects which it was admitted by everybody existed in the law as it now stood; and he trusted that credit would be allowed them for a sincere desire to propose any change in the law which might assist in the development of national industry, and give to the humbler classes of society a better means of investing their savings as well as a greater inducement to make savings in the course of their limited transactions. There was also another matter which should be taken into consideration. It had been generally understood that the hon. and learned Member for Plymouth wanted merely to elicit the opinion of individual Members, and not to call on the House to announce its opinion in a division. In consequence, many hon. Members were absent, and it was unfair, therefore, when there had been an impression that no division would take place, to take advantage of the general concurrence, which he certainly could not deny existed, for the purpose of pledging the House to an abstract Resolution.

MR. J. L. RICARDO differed from the noble Lord, and from the two speakers who had immediately preceded him. He had never seen the House so unanimous upon any question as it had been upon this, and he could not understand what reason could exist why they should not place their unanimity upon record, so that the country might be aware of it as well as they were aware of it themselves. He had never seen a more straightforward Resolution, or one more directly to the purpose, than that which the hon. and learned Member had proposed. It was one which no one could misunderstand, for it went straight to the point, and not all the mystification of the right hon. Gentleman the President of the Board of Trade could envelop it in any degree of difficulty whatever. There had been only one champion on the other side, and even he did not affect to be ignorant of what the Resolution meant. There might have been some strength in the argument of the Attorney General if they had not previously heard the speech of the President of the Board of Trade, because the hon. and learned

Gentleman had come forward in the most straightforward manner, and had expressed his entire concurrence in the views of the hon. and learned Gentleman who had proposed this Resolution. The President of the Board of Trade, upon the other hand, had appeared carefully to avoid expressing any opinion at all; but if anything could be gathered from his speech, it was that he differed entirely from the opinion which the learned Attorney General had expressed. The question had been before the country more than twenty years, and there was no reason why the House should delay expressing its opinion upon it.

MR. CAIRNS said, he also saw no reason why the House should not express their unanimous opinion on the question. It was true it was an abstract Resolution, but it was enough to embody the opinion of the House. The effect would be to strengthen the hands of the Government, and would enable them to feel confident in the support of the House when they brought in a Bill to carry out the Resolution—a confidence of success they did not often feel.

MR. HORSFALL had carefully abstained from expressing an opinion upon the question until he should have had an opportunity of considering it in connection with the Report of the Commission. He had not had that opportunity yet; it had been impossible to do it in the few days that had elapsed since the Report had been in the hands of Members, and if he were obliged to give a vote now it would not be upon the merits, but against the House pledging itself at this moment to an abstract Resolution. He hoped, therefore, the Motion would not be pressed.

MR. THOMSON HANKEY regretted that any Member of the Government should have entreated the hon. and learned Member not to press his Motion; and hoped that those who took a deep interest, as he did, in the question, would not be deprived of the opportunity of showing that they were a strong and united body in pressing upon Her Majesty's Government a measure which they believed to be of great importance to the commercial community.

MR. CROSSLEY thought the hon. and learned Member for Plymouth was right in the main, but hoped he would not go to a division. He should divide with him if he did; but as the matter was of great importance, and one upon which there was a good deal of difference of opinion, he

*Mr. J. L. Ricardo*

thought there ought to be an opportunity for further discussion.

MR. SPOONER said, he was not prepared to vote for an abstract Resolution, in opposition to the conclusion of a majority of the Commissioners. If the Motion were pressed, he should move the previous question.

MR. SPEAKER intimated that this could not be done with an Amendment before the House.

MR. WARNER said, the Commissioners were equally divided upon the question of allowing "special loans," which practically embodied the whole question.

MR. COLLIER, having expressed his gratification at the manner in which his Resolution had been received, and the unanimity of opinion which had been expressed in the course of the debate, said it appeared to him to be immaterial whether he divided the House or not. The feeling of the House had been unmistakably expressed; and, as he felt the force of the appeals made to him by the Home Secretary and the Attorney General, who had intimated the readiness of the Government to take the question into its consideration, and as his own object had been answered by what had taken place, he would, if the House would allow him, withdraw his Motion.

The House, however, by loud cries, having expressed its wish that the Motion should not be withdrawn,

Question, "That those words be there added," put, and *agreed to*:—Main Question, as amended, put, and *agreed to*.

#### CASE OF CAPTAIN DICKENSON—THE "THETIS."

ADMIRAL WALCOTT moved for the appointment of a Select Committee to inquire into the claims of Captain Dickenson, R.N., on behalf of himself, the officers, and crews of Her Majesty's vessels employed on the subject of salvage, &c., connected with the recovery of treasure in the wreck of Her Majesty's ship *Thetis*, off Cape Frio, on the coast of Brazil. The hon. and gallant Admiral made a short statement of the facts of the case.

MR. BROTHERTON moved the adjournment of the House.

Motion made, and Question put, "That this House do now adjourn."

The House *divided*:—Ayes 46; Noes 36: Majority 10.

The House adjourned at a quarter after Twelve o'clock.

## HOUSE OF COMMONS,

*Wednesday, June 28, 1854.*

MINUTES.] PUBLIC BILLS.—1° Episcopal and  
Capitular Estates Management, 1854.  
2° Indemnity.  
3° Cruelty to Animals.

## MORTMAIN BILL.

Order for Committee read.

Motion made, and Question proposed,  
"That Mr. Speaker do now leave the  
Chair."

MR. T. GREEN said, he must appeal to his hon. and learned Friend opposite (Mr. Headlam) whether, in the absence of every Member of the Government, he would persist in going into Committee? The subject before them, as the House was well aware, was no light matter; and it was evident, from the number of petitions presented, that a strong feeling existed in the country against passing the Bill in its present shape. Were they, therefore, to be called on to complete arrangements of the most important character without the sanction of the highest legal authorities of the country being attached to their proceedings? The subject, he would allow, had been referred to a Select Committee, before which it had undergone considerable investigation; but the Bill introduced by the hon. and learned Gentleman (Mr. Headlam) had not been drawn in conformity with the recommendations of that Committee, and it was therefore absolutely essential that the House should have the assurance of the law officers of the Crown that these proceedings should not terminate in inconvenience or difficulty. He must say he was exceedingly surprised that the Bill had been introduced in its present shape, for it went to affect various charitable and benevolent institutions throughout the country, against which no charges had been made either of having used undue influence to obtain funds, or of having improperly administered those funds afterwards. If the Bill were passed in its present shape, he had no doubt that it would materially interfere with the working of several of those charities. He would, therefore, urgently press the postponement of the committal of the Bill, to some future day when the law officers of the Crown could be present.

MR. HEADLAM said, he thought the request of the hon. Member for Lancaster somewhat unreasonable, and he would remind the House that the Bill had been in-

troduced by him as Chairman of the Select Committee which had sat during two Sessions to consider this subject. He would also state in opposition to what fell from the hon. Member for Lancaster, that there was not a single clause in the Bill inconsistent with the finding of the Committee. It was true, indeed, that there was one point which had been left unnoticed in the recommendations of the Committee; but as it was absolutely incumbent upon any one dealing with the question at all to touch upon it, the Bill was made to include its consideration. Now in reference to deferring the further progress of the Bill to a future day, he begged to recall to the recollection of the House that he had introduced it at the earliest possible period of the Session, and that he had not done so until the Government declined acting in the matter, on which occasion he made a full and complete statement of the various provisions of the Bill. It ought also to be remembered that the Bill did not come before the attention of the House in any way by surprise, for a considerable interval elapsed between the period when the Bill was introduced and its second reading—a period of two months. It was then passed with perfect unanimity, for not a single Member made any objections to it. Since that another period of two months had passed, and now, at the close of the Session, when the Bill came to be committed, there was not a single Member of the Government present to inform the country as to their opinions on the measure, though he ventured to state that no measure brought forward that Session contained a provision of greater consequence than that embodied in the 13th clause of this Bill. He quite agreed with the hon. Gentleman (Mr. T. Greene) that the subject was one which ought to be fully and fairly considered; but if her Majesty's Ministers did not choose to attend on an occasion of such importance he could not help it, as their movements were not within his control; and he therefore could not feel precluded by that circumstance from proceeding with the Bill. Wednesday was the only day in the week when private Members were afforded an opportunity of proceeding with their Bills, and he had, therefore, in order to ensure the bringing on the discussion, placed the Bill first on the notice paper for to-day. There was no doubt, therefore, that the Members of the Government had due notice that the question would be brought forward; and under these circumstances,

he would leave it to the House to decide whether the Bill should be then committed or not.

MR. GOULBURN said, he would freely acknowledge that the hon. and learned Gentleman was in no way to blame for his part in the transaction; his course had been quite clear and distinct. The observations, however, just fallen from the hon. and learned Gentleman had not recommended the Bill to the favourable consideration of the House, for he told them that, having applied to the Attorney and Solicitor Generals, both of the late and present Administration—[MR. HEADLAM: No, no!]<sup>1</sup>—they had declined to move in the matter. Now that furnished *prima facie* evidence that the Gentleman most conversant with law held great objections to dealing with the question as the hon. and learned Gentleman proposed. On that account he thought it was only right that the law officers of the Crown, whose place it was to protect the public in matters involving great legal changes, should have an opportunity of stating to the House the views taken by them of the Bill as a whole. He confessed he did not feel, in his individual position, sufficiently instructed as to the bearing of the Bill upon the Law of Mortmain to give an opinion with respect to it, independently of the judgment to be formed from the hearing the opinions of those most competent to deal with the question. He would therefore join in requesting the hon. and learned Gentleman to postpone the further progress of the Bill until the law officers of the Crown should be present.

MR. HADFIELD said, he thought the House had abundant reasons to complain of the conduct of the Government in absenting themselves altogether on such an occasion, and of the difficulties thrown in the way of private Members carrying Bills through the House. He hoped the hon. and learned Gentleman would press the Bill into Committee, for it was a measure tending to remove the impediments thrown in the way of benevolent persons conferring services on the community at large, which at present were very great indeed. The hon. and learned Gentleman who had introduced the Bill was animated by the best intentions, and deserved the thanks of the country for the labour which he had bestowed upon the subject. The only difficulty which he (Mr. Hadfield) anticipated was in the restriction upon charitable institutions, and he

thought that point could be fully dealt with in Committee.

MR. WALPOLE said, he thought his hon. and learned Friend (Mr. Headlam) had been very badly treated; but the persons by whom he had been badly treated were Her Majesty's Government. Here was a very important measure, affecting great and various interests throughout the country, and yet there was not one single Member of the Government upon the Treasury Bench; and he must, on the consideration of such a measure as the present Bill, also complain of the absence of the law officers of the Crown, who were bound to watch over such measures, and to advise the House in reference to them before they passed into law. Such he felt to be the position of his hon. and learned Friend. At the same time, while he had no wish to see the further consideration of his Bill postponed—for he (Mr. Walpole) was one of those who thought that the Mortmain Laws required material alteration—he confessed, on the other hand, that in the absence of the law officers of the Crown, to adopt a Bill which he would venture to state combined more important and questionable changes in the law than anything which had been brought forward in reference to the subject for a long time, would be a course by no means justifiable. He thought, therefore, under these circumstances the best course for the House to take would be to postpone the Bill until some Members of the Government could come down to the House; for he was perfectly sure that they would be unable to arrive at a satisfactory conclusion unless they were in possession of the best evidence open to them as to the probable bearing of the Bill. What he ventured to suggest, therefore, was, that the consideration of the Bill be postponed until after the fourth Order of the Day, by which time, possibly, some Members of the Administration would be in their places.

MR. MASSEY said, he must allow that the condition of the Treasury Bench at that moment was exceedingly discouraging to private members, but it struck him, however, that, if they were to withdraw the Bill on that account, they would be adopting a course very grateful to the Government, who would thereby in future be induced to abstain from coming down to the House whenever they wished to defeat a measure that was unpalatable to them. He must say, if the right hon. Gentleman the Member for the University of Cambridge (Mr.

Mr. Headlam

Goulburn) was not sufficiently instructed in reference to the Bill, that it was his own fault, for a considerable time had now elapsed since a bulky blue book had been published, containing the fullest information on the subject, and the opinions of most eminent men, such as Mr. Pemberton Leigh and others; and therefore that objection did not present sufficient grounds for postponing the further consideration of the measure. He understood, also, that the right hon. Gentleman was wrong in supposing that the late Government had objected to taking up the subject. However, whether they assented to the present measure, all were agreed that the subject was one demanding the most serious attention and consideration of the Government. But he mainly rose in order to prevent the House from adopting a line very perilous to the independence of the House of Commons.

Mr. BOUVERIE said, he considered that it was unworthy of the dignity of the House to admit that they were incapable of proceeding with business because certain Members did not happen to be present. However desirable it might be to have the assistance of the law officers of the Crown in considering Bills of this kind, yet there were Members present—for instance, his right hon. Friend opposite (Mr. Walpole)—quite as capable of forming an accurate judgment and advising the House with respect to the Bill as the law officers of the Crown. He would suggest, therefore, to the hon. and learned Member for Newcastle (Mr. Headlam) to go into Committee on the Bill, postponing, however, the consideration of those peculiar clauses that were chiefly objected to until the decision of the law officers of the Crown could be had. For to adopt the proposal of his right hon. Friend the Member for Midhurst (Mr. Walpole) would be to establish a very objectionable precedent.

Mr. SPOONER said, he must beg to call the attention of the House to what took place when it was proposed to go into Committee on this Bill at a morning sitting. It was then objected that in such a case the House would be precluded from having the assistance of the law officers of the Crown; but the noble Lord the President of the Council (Lord John Russell) immediately rose and said that their attendance would be certainly secured on the occasion, because the Criminal Procedure Bill was named for the same day, at the discussion of which Bill the law officers of the Crown

would be obliged to attend, and therefore on that assurance of the noble Lord the consideration of the Bill was fixed for this day. Now, he could not agree with the hon. Gentleman who had just addressed the House (Mr. Bouverie) in thinking that it would be derogatory to the character of the House to suspend the proposition for the committal of the Bill, because of the absence of the law officers of the Crown; for he thought it incumbent on them to know what course the Government meant to pursue with respect to the Bill, whether they meant to sanction or reject it. He thought it would expedite the ultimate progress of the Bill to wait until the law officers could be present. He therefore proposed that the Committee be postponed until after the sixth Order of the Day had been disposed of.

Mr. ATHERTON said, that, on the contrary, he hoped the House would consent to go into Committee at once. The subject had been already well considered, and the Bill was the embodiment of the recommendations of a Select Committee. So far, therefore, it could not be said that the measure was not brought forward without great preparation. Besides, it was very well known that the only portions of the Bill which had challenged objection were the 13th and 16th clauses. These clauses related to a proposed change in the law with respect to the disposition by testators of personal property; for up to this time the bequest of personalty to religious and charitable purposes had been altogether unfettered, while bequests of land had been fettered for centuries. Well, his hon. and learned Friend (Mr. Headlam) proposed in the Bill to apply fetters to the bequests of personalty for religious and charitable purposes; and upon that point there was a great diversity of opinion. That, therefore, was the most important point of the Bill; and he wanted to know what assistance they would derive in settling that question from the presence of the Attorney and Solicitor Generals in the House? The question was not a technical one—it was one of policy, and could be easily settled in the absence of lawyers altogether.

Mr. MOWBRAY said, that with a view of administering a very proper reproof to Her Majesty's Government for not being present on such an occasion, he would move that the consideration of the Mortmain Bill be postponed until after the fourth Order of the Day had been disposed of.

Mr. PACKE seconded the Amendment.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will resolve itself into the said Committee after the fourth Order of the Day has been disposed of," instead thereof.

Mr. FRESHFIELD said, he thought it was unfortunate that the Bill should have been fixed for a day on which the sessions were meeting all over the country for the local administration of justice, since the House was thereby deprived of the presence of a body of Gentlemen peculiarly qualified to assist in the consideration of this measure.

Mr. H. BERKELEY said, he should support the postponement of the Bill, which, in his opinion, contained the most startling propositions. The 13th clause actually rendered it impossible for any person to bequeath money to charities upon his deathbed. He spoke very strongly on the subject, representing as he did a city which had benefited most extensively from its local charities. The Bill went to this, that every man must live a month after he had made his will.

Mr. HEADLAM said, he was willing to postpone the consideration of the 13th and 16th clauses if the House consented to go into Committee. It was a mistake to imagine that the Bill placed any restriction upon the exercise of benevolence; on the contrary, it very much relaxed existing regulations.

Question put, "That the words proposed to be left out stand part of the Question."

The House *divided*:—Ayes 55; Noes 74: Majority 19.

Words *added*:—Main Question, as amended, put, and *agreed to*.

Committee *deferred* till after the fourth Order of the Day.

The four Orders of the Day having been disposed of,

Mr. HEADLAM moved, that Mr. Speaker do leave the Chair.

Motion made, and Question proposed, "That Mr. Speaker do now leave the Chair."

Mr. MOWBRAY said, that when they divided upon this Bill five minutes ago, it was evidently the intention of the House to postpone the consideration of the measure for a longer time, with a view of giving an opportunity to the law officers of the Crown to be present at the discussion. He believed that several hon. Gentlemen who wished to take part in the

discussion had now left the House. He therefore put it to the hon. and learned Member (Mr. Headlam) whether he could not carry out his object as effectually by postponing the measure until the other Orders of the Day were disposed of. As it was the intention of the law officers of the Crown to be present during the consideration of the Criminal Procedure Bill, he would suggest that this measure be postponed until the Criminal Procedure Bill be disposed of. He should move, therefore, an Amendment, that the consideration of this Bill be postponed until after the other Orders of the Day.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will resolve itself into the said Committee after the other Orders of the Day have been disposed of,"—instead thereof.

Question proposed, "That the words proposed to be left out stand part of the Question."

Mr. ROBERT PALMER said, he believed it was understood that the Criminal Procedure Bill would be postponed until that day week.

Mr. HINDLEY said, that if the hon. and learned Gentleman (Mr. Headlam) would consent to abandon the 13th and 16th clauses of the Bill, he would have no objection to his proceeding with his measure.

Mr. BOUVERIE said, he thought it would be derogatory to the character of the House to come to a Resolution, that a Bill introduced by an independent Member should not be proceeded with because the law officers of the Crown were not present. He considered that it was the most ill-advised course that had ever been proposed to that House.

Mr. BOWYER said, he saw no reason for postponement in the absence of the law officers of the Crown, but he did not think that this Bill could be properly considered during the present Session.

Mr. GOULBURN said, that though he had voted in the division for the postponement of this measure until after the fourth Order of the Day, he thought that the House would not be acting fairly towards the hon. Members who took a great interest in the Bill, to insist upon its further postponement. He therefore hoped that the House would go into Committee upon the Bill, and although it would be a most inconvenient course to have a general discussion upon a future stage of the measure, yet he thought it would be better

that such a discussion should then take place, when the law officers of the Crown were present, than that the progress of this measure should be further delayed.

Mr. MOWBRAY said, as he understood that the hon. and learned Member for Newcastle would consent to postpone the 13th and 16th clauses (being the objectionable ones) until some other occasion, he would withdraw his Amendment.

Mr. HEADLAM said, he had no objection to postpone the two Clauses referred to until some of the Members of the Government were present. If, however, the noble Lord the President of the Council and the noble Lord at the head of the Home Department appeared in their places before they had arrived at those clauses, he hoped that the House would have no objection to consider them.

Amendment, by leave, *withdrawn*.

Main Question put and *agreed to*.

House in Committee.

Clauses 1 and 2 *agreed to*.

Clause 3 (Power to convey land).

Mr. MULLINGS proposed to insert words to limit the portion of land to be thus assigned to two acres.

Mr. PHINN said, he would suggest that five acres should be the limitation fixed.

Mr. G. BUTT said, he thought five acres would be too large a maximum for the purposes contemplated by the Act. Perhaps a limitation to three acres would be better.

Mr. NAPIER said, he could not see how so much as five acres could be required for the site of a church.

Mr. GRANVILLE VERNON said, he understood the object of the limitation to be to prevent estates passing out of the hands of private persons and being improperly applied. He hoped the Committee would not stop at two or five acres, but, if there was to be any limitation at all, it should not be within ten acres.

Mr. ATIERTON said, the limitation would apply to land for the site of "any church, chapel, churchyard, or parsonage-house." What might be an excess for one of these purposes might be too small for another, and he apprehended that if a limit were fixed, it would be competent for a testator to apply the maximum quantity to any of the purposes mentioned.

Mr. BOWYER said, he thought many hon. Members were labouring under a mis-

apprehension of the policy which dictated the old mortmain laws. Those laws were enacted for the purpose of enabling the executive Government to put some check upon the quantity of land held in mortmain, and he could not see how any policy could be involved in the question, whether ten, twenty, or even fifty acres should be given. He would suggest the propriety of postponing the consideration of this clause in order to enable the hon. and learned Member for Newcastle to remodel it.

Mr. HEADLAM said, he had no objection to the insertion of these words, "provided always that such land or such portion thereof devised, assigned, or bequeathed shall not exceed five acres."

Mr. MALINS said, he was not desirous of taking any captious objection to the clause, but, considering the enormous extent of land held upon a life tenure, care should be taken that the object which hon. Members had in view should not be abused. An acre of land in a large town was of very great value, though in a country place it was not worth consideration; and it would be most improper to allow a person, having a life interest to alienate any large and substantial portion of the land of which he was possessed.

Mr. PETO said, that acreage had erroneously been taken to indicate the value of land. This was not the fact, however, and he might mention that Government had given a sum of 140,000*l.* for five acres of land. He thought it could hardly be the intention of the House to give power to a life tenant to alienate in perpetuity that which was of so much value.

Mr. HEADLAM said, the Bill gave no power whatever to any person to alienate anything more than property to which he was entitled, and he saw no reason why five acres should not be fixed as a limitation.

Mr. GOULBURN said, he thought it would be well to understand what were the real provisions of the law at present. They did not enable a person to convey or assign more than the legal interests which he had in the land, but it was proposed to violate that principle so far as to allow a limited amount to be placed in the hands of a particular body for a particular purpose. As the Bill stood, he saw no reason why, when land was given for the purposes of a museum or botanic gardens, the corporation to whom it was conveyed might not dispose of it for some entirely different object.

Mr. MAGUIRE said, he considered it would be better not to include the word "churchyard" in the clause. In many instances a burial-ground extended to 50 and 100 acres, and he thought a limitation to five acres would be much too small.

Mr. HINDLEY moved, that the purposes for which land should be conveyed and assigned should be extended "to hospitals, lunatic asylums, or other buildings for the cure of diseases."

Amendment *agreed to*.

Mr. ATHERTON moved, that the deed of assignment be delivered to the Charity Commissioners within "three months" after its execution, instead of "one month," as proposed by the Bill.

Amendment *agreed to*.

Mr. ATHERTON next moved to leave out the word "three," and insert the word "twelve." He wished that twelve months instead of three should be allowed for the delivery to the Charity Commissioners of a copy of the devise.

Mr. HEADLAM said, he thought it undesirable to make the period so much as twelve months, and he would, therefore, suggest six months.

The word "six" *ordered* to be inserted.

Lord SEYMOUR said, he thought the property ought to revert to the testator or his heirs, if from any circumstances it was not applied to the purposes intended.

Mr. HEADLAM said, the fifth section contained a provision on this subject.

Mr. BOWYER said, it was now proposed that land should be given not exceeding five acres. But had there been any abuse of the power, or had land been conveyed to such an extent as to be prejudicial to the interests of society? He thought there ought to be no limitation, and that, as there was no abuse, there need be no legislation on the subject.

[After a short conversation, it was agreed to limit the extent of land to be given as a site to two acres, except in the case of burial-grounds, which should not exceed five acres.]

Clause, as amended, *agreed to*; as were also Clauses 3 and 4.

Clause 5 (Remedy if too large a quantity of land is given as a site).

Mr. PETO said, that some precautions should be taken to prevent persons who might not be upon good terms with their heirs from doing that which should prejudice their interests. Thus a man might give a site for a burial-ground under his drawing-room window. The Act ought to

give a power of appeal upon the question whether the land given were suitable for the object designed, and he proposed in line 23 to add the words "or shall be unsuitable for the said purpose."

Mr. MULLINGS said, he wished that the Court of Chancery could be got rid of in relation to the Bill.

Mr. HEADLAM said, he did not see what other tribunal could be intrusted with the jurisdiction. There were insuperable objections to giving it to the Charity Commissioners.

Mr. DEEDES said, he thought that the Committee having already strictly limited the quantity of land to be bequeathed for these purposes by the previous clauses, no further restrictions should be imposed. He would recommend that the Court of Chancery should not be intrusted with the determination of questions respecting sites, as was proposed by this clause. Indeed, he thought this clause ought to be altogether omitted.

Lord SEYMOUR said, he hoped, if this clause were struck out, that the hon. and learned Member (Mr. Headlam) would copy into this Bill a clause which was inserted in another Bill of his for the promotion of literature. The clause to which he referred would provide that any land so given, or any part thereof, on ceasing to be used for the purpose for which it was given, should then revert to, and become part of, the original estate or manor, the same as if no such grant or gift had ever been made. Such a provision would be more satisfactory than the clause now under discussion.

Mr. HEADLAM said, he saw no objection to the adoption of this clause. After the limitation that had been agreed to, the whole of the clause might be left out except the last four lines.

Mr. BOWYER said, he did not see any use for this clause at all; it would be the means of involving charitable institutions in Chancery suits and litigation in order to take away some small portion of land left to them, and might lead to the ruin of some institutions by rendering them liable at any time to be drawn into a Chancery suit.

Amendment, by leave, *withdrawn*.

Mr. HEADLAM said, he wished to add a proviso to the clause, to the effect that, upon any land so conveyed, assigned, devised, or bequeathed, or any portion of such land, ceasing to be used for the purposes for which it was originally given, the same

should immediately revert to the person who would have been entitled to it had no such grant been made.

MR. SERJEANT SHEE said, it appeared to him such a proviso was objectionable, inasmuch as it would cause great inconvenience to charitable institutions. When a charity was first instituted it might be impossible for it to erect buildings to so large an extent as it would when the objects of the charity became more numerous. If there was an alteration of this nature introduced into the clause, he certainly thought there ought to be some limitation as to time—say, if such land ceased to be used for twenty or thirty years after the bequest.

MR. MASSEY said, it was his opinion that the clause was superfluous, and ought to be omitted.

VISCOUNT PALMERSTON said, he did not know whether the alteration would accomplish its purpose. The words proposed to be added would apply only on land ceasing to be appropriated to the purposes originally intended. In the earlier part of the discussion some hon. Member observed, with regard to the limitation of extent to two acres, that in the centre of a town that might be more than was necessary, whereas, in other instances it would not. Now, the clause of his hon. and learned Friend provided a remedy in that case, for if the Court of Chancery found it was too much, it gave power to the person to whom, but for the grant, it would have belonged, to recover it, whereas, if the addition were made, the reversion could only take place on the land ceasing to be appropriated to the purpose intended. It seemed to him that would not meet the case, but that the clause as it stood might be made to accomplish the purpose in view by adding a few words to the effect that when such land or any portion of it should cease to be applied to the purposes for which it was so conveyed, it should be restored to the heirs of the grantor.

MR. G. BUTT said, he considered that to leave the matter to the Court of Chancery would only be to introduce an enormous evil; it would multiply suits and give rise to all kinds of expense, and, with regard to the words to be added, there were strong objections to them. His hon. and learned Friend (Mr. Headlam) proposed that if the land ceased to be used for the purpose originally intended, it should revert to the grantor, his heir, or executors. Now, what was the meaning of the words

“ceased to be used?” In all cases where land was dedicated to a particular purpose there was a provision that if within a certain period—a reasonable fixed time, often, in case of railways, five years—it was not used for that purpose, but abandoned, then it should revert to the original owner. That was intelligible, but it was a very different thing from enacting that land should revert on ceasing to be used for its original purpose. He thought, however, that the clause, either in one form or the other, ought to pass.

VISCOUNT PALMERSTON said, suppose an acre or two acres should be granted under the Bill for an infirmary or school in the middle of a town which afterwards, by lapse of time, should decay, was it right that land which, from its situation, might be of great and increasing value, should be let on building leases by the parties to whom it was conveyed for totally different purposes? Surely, it was more just and proper that in such a case it should revert to the person who, unless the grant had been made, would have been entitled to it.

MR. BOWYER said, he considered the suggestion made by his hon. and learned Friend (Mr. Serjeant Shee) a good one, but that it did not altogether meet the difficulty. There could be no doubt in such a case as that put by the noble Lord the Member for Tiverton (Viscount Palmerston), but how could they decide where the question was as to whether part of such land had ceased to be used? That would be most difficult to determine, and persons would be able to harass a new institution by constantly carrying it into the Court of Chancery, in respect to scraps of land which it would be alleged had ceased to be used.

MR. SERJEANT SHEE said, he admitted that what had fallen from the noble Lord (Viscount Palmerston) had great weight, and that it would be an act of injustice to the family of a person who had left property to a charitable institution if the trustees were allowed to derive an advantage from such property after it had been diverted from its original use. He thought, however, this clause might be effectually reformed by adding a limitation of twenty years from the date of the devise before the land should so revert to the heirs, which would give time to ascertain whether the institution was really beneficial to the public and what land it required. Something had been said of the great

danger of referring a question of this kind to the Court of Chancery, but he thought hon. Gentlemen on that side of the House were a little mistaken. The proceedings in that Court were much less expensive than they were two or three years ago, and in his opinion no tribunal would be so good for a court of reference for this purpose as the Court of Chancery.

LORD SEYMOUR said, all he wished to secure was, that, where property was left for public purposes, it should be kept for such purposes alone, and that the trustees should be aware that if it were not so kept it would revert to the heir. With regard to railroads, it was quite right the land abandoned should revert to the original owner; but suppose ground was left for purposes of science or the fine arts, if the limitation proposed by the hon. and learned Serjeant were adopted, land might be applied to the original purpose for twenty years, and then applied to another purpose. Such an Amendment would, in his opinion, have a bad effect.

Mr. BOWYER said, if it was evident it was so misapplied, the law already gave a remedy on an application to the Court of Chancery, or by a suit instituted by the Attorney General; therefore it was unnecessary to provide a new one in this Bill.

*Amendment agreed to.*

Mr. HEADLAM said, the clause was now reduced to the very simple and moderate proposition, that when persons gave a small portion of land, to the extent of two acres, for a purpose which everybody admitted to be good, if the land was not used for that purpose, the persons to whom it was conveyed should not get the benefit of it, and it should revert to the original grantor or his heirs.

Mr. W. R. FITZGERALD said, the noble Lord the Member for Tiverton had given an illustration of a case in which an institution might be situated in the centre of a town, but he did not see how the clause was to apply where a person left his whole estate to a perfect stranger except two acres devoted to a charitable institution. He thought its adoption would create great difficulties.

Motion made, and Question put, "That the Clause, as amended, stand part of the Bill."

The Committee divided:—Ayes 134; Noes 69: Majority 65.

*Clause agreed to.*

Clause 6 (Power to sell lands to trustees for charities).

*Mr. Serjeant Shee*

Mr. GOULBURN said, it was his wish to have a legal opinion respecting the effect of the clause, which, in his opinion, would virtually repeal the mortmain law, so far as regarded land that was given for charitable purposes. He did not see how the clause could be justified, and must again express his desire to have a legal opinion respecting the policy of making an enactment by which a large portion of land could be placed in mortmain without any check whatever.

Mr. HEADLAM said, that the clause would not afford the slightest facility to give or devise land for charitable purposes.

Mr. GOULBURN said, his objection had reference to the sale of lands.

Mr. HEADLAM said, he must beg to explain that the clause had reference to a case where it should become necessary for a charity to buy a piece of land, and the provisions of the Mortmain Act were not applicable to a case of that description. Suppose a gentleman should sell for its whole value a piece of land to a charity, there was no necessity that the transaction should be dependent upon his living one year after the sale. He begged to call attention in support of his views to the Report of the Committee, page 12, in which it was stated—

"That where money already devoted to charity is laid out on land, it clearly differs from a voluntary gift, and the reasons that render restriction necessary in that case do not apply to the other."

The Committee was perfectly unanimous upon the necessity of this clause; and Mr. Bunting, an eminent solicitor in Manchester, had stated in his evidence that the regulations of the present law were most grievous and absurd, for he could, from his own experience, enumerate in five minutes property to the amount of 200,000*l.* or 300,000*l.*, the title to which, in consequence of those regulations, was bad except so far as it had been cured by Statute. Nor was the evil effect of the present law limited to sales; because even a lease with reservation of rack-rent was void unless the lessor lived for twelve months afterwards. The clause was strictly founded on the recommendations of the Commissioners.

Mr. GOULBURN said, the hon. and learned Gentleman had not adverted to one great object of the existing law, which was, as much as possible, to prevent corporations acquiring landed property. Now, it was certain that the Mortmain Act did

render sales to corporations less frequent than they would otherwise be, and that the present clause, by removing existing restrictions, would render such transactions more frequent than they now were.

MR. ATHERTON said, he thought the right hon. Gentleman (Mr. Goulburn) entertained a somewhat exaggerated idea of the change proposed to be effected by this clause. Under the Mortmain Law at present existing a material distinction was made between the disposition of land in perpetuity by way of gift and the disposition of land in perpetuity by way of sale on ample consideration. The second section of the 9 *Geo. II. c. 36*, which regulated the law of mortmain, provided that the restrictions contained in the first section should not extend to any purchase of an estate or interest in land, or to any transfer of stock, made really and *bonâ fide* for a full and valuable consideration actually paid, without fraud or collusion. Under the existing law, the instrument by which such conveyance or transfer was made must be enrolled in the Court of Chancery, but this clause provided that a copy of the conveyance or assignment should be delivered to the Charity Commissioners.

MR. TATTON EGERTON said, he conceived that the clause would enable charitable corporations, by converting money into land, to defeat directly the objects of the Mortmain Law. He objected to the clause on the ground that it would allow land to be locked up under conveyance to any corporation, whether for charitable or other uses, for ever.

MR. HEADLAM said, that a proviso at the end of the clause would prevent charitable trustees expending in the purchase of lands any funds which they could not now devote to that purpose. The present law did not prevent estates being conveyed to charities, but merely rendered the validity of the conveyance dependent upon the person conveying living for twelve months after its execution.

MR. MULLINGS said, that the only effect of the clause would be to enable the consideration for a sale of land to a charity to be reserved as a rent charge. He had brought in a Bill three years ago to make what he considered a salutary change in the law; but, after giving attendance every night till the end of July, he was compelled to give it up, and the hon. and learned Gentleman who promoted this Bill was its great opponent.

MR. MALINS said, the object of the existing Mortmain Acts was to limit the quantity of land held by corporations, and so tied up from alienation. Now, unquestionably the effect of this clause would be to remove the existing restrictions upon conveyances of land to corporations. For although, if this Bill passed, a person would still be unable immediately to devote a landed estate to charitable purposes, yet a person having money might then purchase such estate in the name of a charity, and obtain an immediate conveyance to it; so that in that way there would be a mode which did not now exist of obtaining an immediate conveyance of landed estate to a charity.

MR. HADFIELD moved to insert in line 37 the words, "except in the case of lands conveyed for any term not exceeding twenty-one years."

MR. HEADLAM said, that he would agree to make the term seven years instead of twenty-one, as suggested by the hon. Member.

*Amendment agreed to.*

MR. WALPOLE said, he begged to ask the hon. and learned Gentleman the Solicitor General what in his view would be the effect of this clause upon the present law of mortmain?

The SOLICITOR GENERAL said, that since he entered the House, he had vainly attempted to discover the position in which the Committee stood in relation to this clause. To one object of the clause, if he correctly understood it, he should be quite willing to accede. It appeared that the 9th *Geo. II.* only extended to sales for money paid down, and did not extend to grants made on a reservation of rent that might be equivalent to money value. Now, he certainly thought it would be well to give the same powers of sale to charities on reservation of rent that now existed when the money value of the land was paid down. The clause, however, seemed to be so worded that it might, in one respect, have an injurious and restrictive operation upon the present law; while in another, it might open the door to a very complete evasion of the law as it now stood. It appeared to impose inconvenient restrictions upon transactions which came within the licence of the present law, while, by a kind of complication in its language, it might enable a man to purchase and direct a conveyance of land to charitable trusts, which would be a transaction not allowed by the present law. He would, therefore, suggest

to his hon. and learned Friend, that it would be better to postpone the clause until it had been reprinted in the form in which it now stood; for without that, it was impossible to form a definite opinion of what would be its effect after the alterations which it had received at the suggestion of hon. Members.

Mr. HEADLAM said, he would have readily acceded to the request of the hon. and learned Solicitor General, had he stated any definite objection to the clause, instead of merely throwing out vague insinuations as to what might be its effect. The hon. and learned Gentleman said, that he could not judge of its effect after the alterations it had undergone; but the fact was, that the alterations that had been introduced into the clause were of the very slightest character, and might be readily understood. Of course, if the Government opposed the clause, he could not hope to succeed in carrying it; but he thought he had a right to complain of the way in which private Members who brought forward important measures were treated by the Government. No Members of the Government were present during the discussion, and then towards its close the hon. and learned Gentleman the Solicitor General came down, and without offering the slightest suggestion, or even intimating definite objections, threw out vague insinuations which it was utterly impossible to deal with.

THE SOLICITOR GENERAL said, that he had stated two very distinct objections, and he certainly thought it was not much to ask, that the clause should be postponed until they had an opportunity of considering it in its amended form.

Mr. MALINS said, that the observations of the hon. and learned Solicitor General had confirmed the objections which he had previously taken to this clause. As to the complaint that the hon. and learned Gentleman the Solicitor General had not attended earlier, this quite confirmed the soundness of the argument which had been insisted upon, that measures of this important, and, at the same time, very intricate character, should not be brought forward in morning sittings, when it was almost impracticable for the law officers of the Crown to be in attendance, to say nothing of the other legal Members of the House.

VISCOUNT PALMERSTON said, in order to see what his hon. and learned Friend (Mr. Headlam) was about to do, it was

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necessary to consider the provisions of the present law which his hon. and learned Friend proposed to repeal. By the 9th Geo. II., any man might sell any quantity of land to a charitable institution on receiving the full value for it in money, and enrolling the conveyance in Chancery within a certain time. Now the first object of his hon. and learned Friend's clause was, to allow a man to sell on a reservation of an annual rent-charge, as well as for a sum of money down, which was not admissible under the existing law. The reason he proposed this alteration was, that in certain parts of the country transfers of sites for buildings did not take place on payment of the full value down; and charitable institutions were in consequence unable to obtain such sites, except on a reserved rent. The effect of this was, that the titles of a great part of the property which had been transferred to charitable institutions in Lancashire and the north of England were liable to be impeached, because the conveyance had not been made on what, under the existing law, was a great consideration. The object of his hon. and learned Friend was then to confirm the titles to land granted on a reserved rent, both for the past and the future. Now, the objection which his hon. and learned Friend the Solicitor General took to the clause was, that it did not provide that the transfer should be made direct to the charitable institution, but that it left an opening for an intermediate transaction of an objectionable character. He should think that his hon. and learned Friend (Mr. Headlam) might frame the clause so that, while removing defects in the existing law, it should not be liable to new objections. He would suggest to him that it would be desirable to postpone the clause, in order that this point might receive consideration.

Mr. HEADLAM said, that he now understood the objection of the hon. and learned Solicitor General, which he did not before. The language of the clause, however, he conceived was so explicit as not to leave an opening for any such intermediate transactions as the hon. and learned Gentleman seemed to apprehend.

Mr. SERJEANT SHEE said, he thought the clause would enable charitable purposes to be carried into effect without producing any of the inconveniences which the Act of Geo. II. was passed to prevent.

THE SOLICITOR GENERAL said, he was entirely ready to support any clause

which should do this—and no more than this—to make the reservation of a rent-charge, in cases where property was conveyed for charitable purposes, equivalent to the payment down of the whole purchase money. He objected to the clause, because, in his opinion, it did a great deal more than this.

MR. HEADLAM said, he did not think that the hon. and learned Gentleman, with all his ingenuity, would be able to put the clause in better language. He hoped it would be adopted as it stood, and if on the Report the hon. and learned Gentleman could suggest better terms, he would willingly consider them.

THE SOLICITOR GENERAL said, he thought that some such words as these would be sufficient; that in the case of the conveyance of property for charitable purposes, where rent is reserved, that rent, so reserved, should be deemed and taken to be the full and valuable consideration within the meaning of the Act.

MR. SPOONER said, he was of opinion that their proceedings justified him in the remark, that it was derogatory to the dignity of the House to discuss this question at a sitting at which the law officers of the Crown were not present. He wished to have an interpretation of the word "seised" in the clause, and to know whether a tenant for life would have power under that interpretation to part with the full estate.

THE SOLICITOR GENERAL said, that the term "seised" in the clauses of this Bill could not, of course, be construed to give a power to a tenant for life to convey away, for charitable purposes, a larger interest than the person seised himself possessed on the property.

Motion made, and Question put, "That the Clause, as amended, stand part of the Bill."

The Committee *divided*:—Ayes 106; Noes 91: Majority 15.

Clause *agreed to*.

The House resumed. Committee report progress.

The House adjourned at half after Five o'clock.

## HOUSE OF LORDS,

Thursday, June 29, 1854.

MINUTES.] Took the Oaths.—The Lord Bishop of Salisbury.

PUBLIC BILLS.—1<sup>st</sup> Cruelty to Animals. Reported.—Legislative Council (Canada).

## LEGISLATIVE COUNCIL (CANADA) BILL.

Order of the day for the House to be put into Committee read.

*Moved*, That the House do now resolve itself into Committee.

THE EARL OF DERBY: My Lords, it now becomes my duty, in pursuance of the notice which I have given, to state to your Lordships the grounds upon which I shall venture, very respectfully, but earnestly, to urge on your Lordships the suspension, at all events for one Session, of a measure, the importance of which, not only to this particular Colony, but to the North American Colonies generally, and to the general colonial interests of this great country, I believe can hardly be exaggerated. I have first of all to apologise to your Lordships for having taken a somewhat unusual course of proceeding in having omitted to record any objection to the second reading of this Bill—for having permitted it to pass a second reading without offering any objection—and then objected, as I did the other night, and as I am now about to do again, to go into Committee upon it for the purpose of considering its details. My apology must be, my Lords, that on the occasion upon which this Bill was read a second time I had omitted to look into the Votes, and I was not aware that it would come under the consideration of the House. I make no complaint of its not having been properly upon the Votes, but it was a day on which, as noble Lords are aware, it is not usual to bring forward any important measure, as many of your Lordships are supposed, on that particular day, to be absent elsewhere. I must say, also, that with respect to a measure of this importance, it would have been more convenient, and more accordant with the usual practice, if the noble Duke, in introducing the measure to the House, had stated the intentions of the Government—had explained, for your Lordships' information, the objects which the Government had in view, and had pointed out the importance of the changes which the Bill was intended to effect. Because, in point of fact, when the second reading of the Bill came on—your Lordships' attention not having been particularly called to it by any notice on the part of the Government—there was, I believe, a very small attendance. I believe the noble Duke will not contradict me when I say that, in laying this Bill upon the table of the House, he did not accompany it with any observations whatever. And although that is a

course which may not be objectionable where the subject to be dealt with is not of any very great importance, yet, when you are introducing a measure which does not refer to any matter of minor legislation, but which fundamentally destroys the constitution of one of our most important Colonies, and does away with one of the most important safeguards for the monarchical element in that constitution—a safeguard which has been upheld by successive Governments since the year 1791, and was solemnly confirmed, after full reflection and deliberation, by both Houses of Parliament, in settling the constitution of Canada in the year 1840—I say that when Her Majesty's Government had come to the determination of proposing such a measure as this—a measure which affects that constitution in one of its most important parts—it would have been better, and more becoming the subject, if the noble Duke, in proposing the first reading of the Bill, had stated to your Lordships what were the views entertained by Her Majesty's Government. But, my Lords, that is not all; for upon the second reading of the Bill, a noble Friend of mine behind me (Lord Wharncliffe)—who is here at very great personal inconvenience to take part in this discussion—called the attention of the noble Duke to there having been some despatches or explanations, from the Governor of the Colony himself, bearing directly on the question about to be discussed; and which papers the noble Duke had never laid upon the table of your Lordships' House—had never submitted to Parliament in any shape whatever—although they were most material to the discussion of the question:—and even after notice had been given of the absence of those papers, the noble Duke persisted in taking the second reading of the Bill. These are the circumstances under which I feel myself justified in taking the course, even after the second reading, of opposing the further progress of this Bill. But I remember that, upon a former occasion, when his attention was called to the absence of these papers, the noble Duke replied that they had been laid, during the last Session, before the House of Commons. Now, my Lords, I have the papers here, which have been laid upon your Lordships' table since the second reading of this Bill. They contain a despatch from the Earl of Elgin, received on the 11th of July, 1853, and forwarding an address from the Legislative Council, remonstrating against the

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proposed change in the constitution of the Colony; and another despatch, dated upon the same day, but not received until the 18th of July, forwarding a counter-address from the House of Assembly, praying that this change might take place. They contain also the resolutions in detail of the House of Assembly, upon which the scheme for remodelling the Legislative Council was founded, and a letter from the Earl of Elgin, in which he states his objections to the measure, at the same time that he accompanies it with a recommendation that it should pass. And they contained further papers of later date, and among them a draft of the Bill itself, founded upon the resolutions to which I have already referred. Now, my Lords, the two letters of Lord Elgin, the address of the House of Assembly, the address of the Legislative Council, and the resolutions of the House of Assembly, setting forth their plan in detail, were all in the possession of Her Majesty's Government on the 18th July, 1853. The noble Duke says, they were laid before the House of Commons in the course of last year. Strictly speaking, that is true, true as to a portion of them, but as to a portion of them only. The address of the House of Assembly and the address of the Legislative Council—one being in favour of the change and the other against it—were laid before the House of Commons in the course of last year. But the opinions of Lord Elgin were not laid upon the table of the House of Commons—the resolutions of the House of Assembly were not laid upon the table of the House of Commons; and, of course, the subsequent papers could not be laid upon the table of the House of Commons, because they were not in existence. My Lords, if these papers had been laid upon the table of that House, together with the letter of Lord Elgin, and if this had been done with the authority of the Crown as the spontaneous act of the Government, there might be some pretence for saying, that notice had been given to Parliament from which the probable intentions of Her Majesty's Ministers might have been anticipated. But, my Lords, this was not so—it was not the spontaneous act of the Government. But these papers were laid—as many of them as were laid—upon the table of the House of Commons, on the Motion of an independent Member of that House (Mr. Bright, the Member for Manchester). Mr. Bright moved for copies of the two addresses—the address from the

Legislative Council and the address from the House of Assembly—and these addresses were produced; but will any one say that, having been moved for and produced, under such circumstances as these, they could be taken in the slightest degree as affording any indication of the intentions and views of Her Majesty's Government? But, my Lords, when were they produced? I find that this paper, containing nothing but these two addresses, was ordered by the House of Commons to be printed on the 20th of August, 1853, just two days before the prorogation. I ask the noble Duke, therefore, how he is prepared to justify the course of proceeding adopted by the Government in retaining these papers in its own possession—in withholding them from Parliament—from the 18th of July, 1853, to the 16th of June, 1854—in producing them, at last, only after the second reading of the Bill which is founded upon them—and in producing them, even then, not of their own accord, but at the request and on the notice of a noble Lord on this side of the House? But, my Lords, I say, more than this—that I think that Parliament has a right to complain that it should have been kept in darkness as to the intentions of the Government—if the Government had formed any—and in doubt as to the opinions of Lord Elgin, down to the beginning of June, 1854, and that then, and not till then, when Parliament is overwhelmed with business which it will scarcely be possible for it to get through, it should be called upon, upon a notice of a few days only, to discuss a measure of such vital consequence—a measure whose influence must of necessity be so great upon the constitution and the future legislation of one of our most important Colonies. Now, I must say that I do not think that withholding papers from Parliament for the space of ten months—until nearly the end of the Session—and then suddenly calling upon Parliament to legislate upon a matter of this deep importance—I do not think, I say, that this is dealing with Parliament as Parliament has a right to expect. But, my Lords, referring to these papers further, I find that the noble Duke—contrary to all his ordinary habits of punctuality in business—did not reply to these two despatches of Lord Elgin until the 26th of May, 1854. Why were they not answered sooner? Because the Government, up to the 26th of May, had not made up their minds what

answer they should give—because, as the noble Duke said the other day, he wished to consult Lord Elgin, and to have the benefit of his advice when he came from Canada to this country. On that 26th of May, a short and summary answer was given to the two addresses—one of which was a petition in favour of the change, and the other a petition against it—in which it was announced that a Bill would be introduced into Parliament for the purpose of carrying into effect the wishes of the House of Assembly. But if Her Majesty's Government took ten months to consider what they ought to do in a matter of this importance, is it too much that the House of Lords and the House of Commons should ask something more than a notice of a few days or even weeks before they are called upon at the close of a Session, and in the midst of that pressure of business which the close of a Session invariably brings with it, to decide a question of such magnitude as that which the present Bill involves?

Now, my Lords, what is the question? The noble Duke was not particularly well pleased the other day when I said that this was a Bill which would convert the constitution of Canada into a republic. My Lords, I repeat that statement now; and I say that not only will it convert the constitution of Canada practically, whatever it may be nominally, into a republic, but it will convert it into a republic which will be infinitely more democratic in its character, and guarded by infinitely fewer safeguards and infinitely fewer securities, than are to be found in the constitution of the United States, which, from the wisdom of its authors, and the prudence of those who live under it, has protected itself against hasty legislation, and against the preponderating influence of a single legislative body, by precautions which are not to be found in this Bill, and some of which, actually existing at present, this Bill professes to do away with. It is true that the object of the Bill is not to legislate directly for the Colony, but to enable the Colony to legislate for itself upon a particular question, which has been solemnly reserved to itself by the Parliament and Government of this country as a matter of Imperial importance. Now, my Lords, more than once we have been called upon to sanction Acts of the Colonial Legislature, which, except that they were Acts of the Colonial Legislature—except that they were measures which the Colonial Legis-

lature was anxious to have carried into effect—we should certainly have rejected. We were called upon to legalise a measure with respect to the rebellion losses—a measure which gave compensation not only to the loyalists who had suffered on the part of the Crown in Canada, but also to those persons who had suffered loss from Her Majesty's forces in consequence of the part which they had taken in promoting the rebellion; and I do not believe there was a single man in this House, on either side of it, who did not feel that, in assenting to that measure, we were taking a course humiliating to ourselves, and degrading to the country. We were then called upon to pass an Act with respect to the clergy reserves—to give power to the Colonial Legislature to deal with those reserves, because it was said it was a matter which was proper for internal arrangement, although it had been specially reserved as a matter of Imperial interest for the consideration of the Imperial Legislature. We were asked to give that power to the Legislature of Canada, and to hope that it would not exercise that power in the way which many of us apprehended, and it was that hope—that fallacious hope—which induced a right rev. Prelate, whom I now see in his place, to sacrifice the interests of the Colonial clergy and the rights of the Colonial Church by giving his assent to the Bill. My Lords, that measure has realised the worst anticipations of those who opposed it; for the very first step which has been taken under it is the secularisation of those clergy reserves. Now, I say that, if on every point in which Imperial control is reserved over local legislation we are to be pressed perpetually with the arguments advanced on these occasions—that, however wrong, however objectionable, however contrary to the principle of British government, or inconsistent with the Colonial system, yet if it be the will of the Colonial Legislatures, Parliament should waive the exercise of its supreme authority and sanction the violation of those principles—then, I say, that rather than this should always occur, we had better not affect to have any authority at all. It is infinitely better not to retain an authority which in each individual case we are compelled to abandon, and compelled to abandon it for the purpose of sanctioning measures which we directly and absolutely disapprove. It would be far better to say at once to the Colonies, "Parliament will exercise no control over your legislation, the

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British Ministry will not seek to check your legislation—you shall be altogether independent, subject only to the authority as far as the authority of living under a common Sovereign, speaking to a great extent a common language, and, I hope I may say, participating in common feelings and sympathies." But, my Lords, on the last occasion, on the question of the clergy reserves, we had, at least, the poor consolation of hoping that things might not be quite so bad as we anticipated they would be—that, although we gave the Legislature of Canada the power of acting in a manner unjust to individuals and injurious to the nation at large, possibly, in the exercise of good sense and moderation, they would take liberal, and not extreme views. But in the present case we are not left in doubt; because that paper, which was withheld from Parliament, which was never laid before us until after the second reading of this measure, contains the Bill *verbatim* which the Legislative Assembly desire to pass as soon as they shall obtain from you the authority asked under the sanction of this Bill. Remember, my Lords, that when, after a series of unfortunate events in Canada, after much irritation and much exasperation, a measure was brought into Parliament, and carried through both Houses with more general concurrence than has attended any measure that I ever recollect as to the propriety of passing it, but with greater doubt than I ever recollect with regard to any other measure as to the danger of passing it, and to the probable consequences to which it would lead—when that measure was passed for the purpose of uniting the two Provinces of Canada, and at the same time solemnly fixing what should be the future constitution of those united provinces, there was no point in the whole course of that discussion which received—I will not say on that occasion—but which received more deliberate attention, than whether the Legislative Council, or Upper House, should be an elective or nominative body. I need not tell your Lordships that, previous to that period, by the constitution of both Provinces, there was a Legislative Assembly elected by a free and extended constituency—a House, undoubtedly, not representing and not filling the place which your Lordships fill in the constitution of this country, for the best of all reasons—because there were no material circumstances, no great hereditary properties, no hereditary titles, no great accumulation of

wealth, and comparatively few men of leisure to devote themselves altogether to public affairs. But, my Lords, it was always felt to be most important, as a check upon the undue precipitancy which might attend the legislation of a single Chamber, that there should be another Chamber, and that not of an elective character, but nominated by the Crown, and giving to the Crown the influence which nomination naturally preserves to it. At the same time that that Chamber was not so perfectly independent, perhaps, as your Lordships' House, because there was no hereditary succession, it was independent to this extent—that a member once nominated held the office for life, and was no longer under the control of the Government of the Crown. This question of an elective Council was one of the earliest demands of the democratic parties in Upper and Lower Canada, previous to the Canadian rebellion, and the question was raised upon more than one occasion in the House of Commons, even previously to the discussion of the Canadian Union Bill in 1837. I beg your Lordships' attention to the terms in which a Minister of the Crown then, and a Minister of the Crown now, recorded his opinion in the House of Commons in moving certain Resolutions on the question of an elective as against a nominative Council—

“The first demand of the Assembly is that the Legislative Council, having hitherto been nominated by the Crown, shall in future be an elective Assembly. With respect to the proposition of making the Legislative Council elective, the effect, in the present state of the Colony, would be to make a second Assembly exactly resembling that which already exists. There can be no doubt, from the Report of the Commissioners—and every one who has spoken on the subject seems to have come to the same conclusion—that the second Assembly would be but an echo of the first, and would try to enforce all their demands.” [3 *Hansard*, xxxvi. 1293–4.]

And, in consequence of that opinion, which was held and expressed in the House of Commons by Lord John Russell in moving certain Resolutions, he declared he found on those grounds that it was absolutely impossible the Government could comply with the first and principal demand of the Legislative Assembly of Upper and Lower Canada. The question was put to the vote, and a vote was taken aye or no shall there be two elective Chambers, and the division on that occasion in the House of Commons testified that the opinion in favour of an elective Chamber was 56, and against an elective Chamber, 318. It is

but right that I should say that I admit that with whatever vehemence and ability the noble Lord contended against the elective principle in the second Chamber, he contended with even greater vehemence and vigour and decision of language against what was called a system of responsible government. It would be really worth while to turn back to those discussions which took place in 1837, to see the argument then used by the present Lord President of the Council, showing the absolute incompatibility of what was understood by responsible government, and the relations with the mother-country. The noble Lord not alone held those views. The present Chancellor of the Exchequer said—

“If I am asked what is the definition of a responsible government, I answer it means nothing more than an independent Legislature.”

That was the opinion of the Chancellor of the Exchequer and the President of the Council on the question of responsible government; though it is quite true in the interval between 1837 and 1840 the President of the Council issued a despatch which practically yielded the case of a responsible government, and had the effect of creating extraordinary difficulties in the administration of the government of Canada. In 1840 it was my fate to succeed to the office of Secretary of State for the Colonial Department, immediately after the recognition of responsible government, and though no abler Governor ever presided over the affairs of Canada than the illustrious man who was then Governor General, Sir Charles Metcalfe could never reconcile the two propositions—namely, the existence of a Government responsible to the local Legislature, and the authority of the Crown exercised through a Governor responsible to the Crown and the Parliament of this country. If any man could have reconciled those two conflicting propositions, Sir Charles Metcalfe was the man; but through the whole course of his administration it was a perpetual struggle between them. But as I stated, this question of an elective Council was one deliberately affirmed when the Act of 1840 for the union of the two Provinces passed the Legislature, and apprehensions were then entertained by various parties as to the possibility of working that Legislative Council, even in the form in which it passed Parliament. The noble and gallant Duke whose loss this country will never cease to lament (the Duke of Wel-

lington) expressed very strongly his conviction that the passing of the Bill for the union of the Provinces, even in that shape, would lead to the loss of those colonies at no distant period. The present Chancellor of the Exchequer, in the other House, even though he assented to the Bill, assented with fear and trembling, and pronounced an opinion that it was the first step towards the dissolution of the tie between the colonies and the mother-country—an event which he did not seem to anticipate with as much regret as I should regard it. The noble Earl on the bench above (the Earl of Ellenborough), though he did not join in opposition, expressed in the strongest terms his concurrence with the noble Duke in the apprehensions he entertained in consequence of the measure. But how would the apprehensions of noble Lords and right hon. Gentlemen, how would the apprehensions of Parliament, as to the possible working of the measure have been increased, if they had been told that the united Legislature was to consist not of a Governor appointed by the Crown—not of a Legislative Council nominated for life by the Crown, and acting with the Council—an Assembly freely elected by the people—but that it would consist of a responsible Governor, the Governor being guided by the advice of a responsible elective Council, necessarily having the confidence of the House of Assembly, and that House not checked or controlled by any power whatever, except a body elected by the same constituency, subject to precisely the same influence, but practically more dependent than the House of Assembly itself? I must again refer to the language used in 1840, not invidiously, but because it strengthens the argument, and for the purpose of showing on what understanding it was the Houses of Parliament favoured the measure for the union of the two Canadas in 1840. The noble Lord the President of the Council said—

“A great party is attached to that proposal (the proposal for the constitution of the Legislative Council), and I agree with them in thinking that it will give permanence and independence to that body, which is most desirable. There is a strong party in favour of this proposal, and no party in favour of any other, except those who are in favour of an elective Council, to which the Government always has had a most decided objection, and to which, on a proposition which I made three years ago, this House expressed likewise its repugnance; and the other House of Parliament came to similar resolution.” [3 *Hansard*, lii. 1329.]

What was the language of Lord Melbourne  
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moving in this House the second reading of the Bill? If I recollect right, he said, that after all the discussions which had taken place, and all the controversy which had arisen, it would be matter of surprise that the Government should come to the conclusion to make no alteration in the constitution of the Legislative Council. But, he added—

“I am of opinion that the government of a free community by one Assembly is a matter almost impossible—at any rate it must be subject to great inconveniences, if not to great dangers; and if you are to have popular government at all I think you must have two Houses of Assembly, constituted in different ways, and upon different principles—one of them not being subject to that popular control which I admit to be useful to the other, and to be the spring of all good government.” [3 *Hansard*, lv. 232.]

Those are the words of Lord Melbourne in recommending to your Lordships that constitution, an essential part of which you are called on now to violate and overthrow. In the course of that speech, Lord Melbourne quoted an authority, which, I think, your Lordships will not dispute—at all events, it is an authority not prejudiced against popular interests, or in favour of extending the power and influence of the Crown—I mean the authority of the late Lord Durham, who had been acting as Her Majesty's Commissioner in Canada, and had seen the practical working of the Legislative Council. And what did Lord Durham say of the practical working of the Legislative Council up to that time?

“I am far from concurring in the censure which the Assembly and its advocates have attempted to cast on the acts of the Legislative Council. I have no hesitation in saying that many of the Bills which it is more especially blamed for rejecting, are Bills which it could not have passed without a dereliction of its duty to the constitution, the connection with Great Britain, and the whole English population of the Colony. If there is any censure to be passed on its general conduct, it is for having confined itself to the merely negative and defensive duties of a legislative body, for having too frequently contented itself with merely defeating objectionable methods of obtaining desirable ends, without completing its duty, by proposing measures which would have achieved the good in view without the mixture of evil. The national animosities which pervaded the legislation of the Assembly, its thorough want of legislative skill or respect for constitutional principles, rendered almost all its Bills obnoxious to objection by the legislative Council; and the serious evil which these enactments would have occasioned convince me that the Colony has reason to congratulate itself on the existence of an institution which possessed and used the power of stopping a course of legislation which, if suc-

cessful, would have sacrificed every British interest, and overthrown every guarantee for national order and national liberty." [3 *Hansard* lv., 232.]

Here was most impartial testimony borne not only to the utility, but to the absolute necessity and the vital and essential importance, of having such a body as the Legislative Council, not acted upon by the same popular influence which operated upon the Assembly, but interposing a barrier, or I may say a breakwater, to the force of democratic influence, as it existed in the Legislative Assembly, and the unaided power of the Crown exercised through the Governor. I do not see, my Lords, upon an examination of these papers, any special ground laid for the introduction or discussion of this important question. I see no statement of valuable measures lost by the resistance of the Legislative Council in its present form. I see no evidence of collisions between the two Houses. I do not mean to say if I did see collisions between them, I should at once conclude that the Legislative Assembly must be right and that the Legislative Council must be wrong. But before we are called upon to alter the constitution of a great Colony from a monarchical to a democratic constitution, we ought at all events to have some valid grounds laid before us that the constitution, in its present working, works for evil, and not for good—that it arrests measures which are calculated for the benefit of the Colony, or it stands in the way of good legislation. With regard to this, however, we have not the slightest evidence before the House; there is not the slightest allegation, not the slightest insinuation, that such has been the case. We have heard nothing but of the extraordinary progress of Canada in material welfare, and I believe, and rejoice in it; but is that evidence of bad legislation? Why, my Lords, the whole internal affairs of Canada are left without exception to the free control of these two Houses of Parliament; and if the result of their legislation, under the slight control which the Crown exercises through a Secretary of State and a Governor, has been an amount of material prosperity, of material growth, unparalleled in the history of any other colony, and leaving far behind the boasted progress of the United States, where, I ask, is the necessity for the proposed change?

Now, my Lords, I turn to the Bill which the Legislative Assembly are desirous that

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the House shall pass, and I am about to show, not only that it is a Bill of a thoroughly democratic character, but, as I have said before, that it deprives Canada of the safeguards with which the founders of the United States surrounded their republican institutions. I need not tell your Lordships that in the United States there is no Assembly exercising perpetual control over the Executive, no party Government requiring the constant support of the House of Assembly and Congress. It is true the President is elected; but once elected, and for a period of four years, he exercises real and substantial authority. The Ministers are of his selection. The defeat of a measure does not involve the defeat of the Cabinet. A single Minister may resign; but there is not that mutual bond of responsibility one for another which is of the essence of what is called "responsible Government," namely, a Government acting by party, going together, framing their measures in concert—as I hope every Government form their measures in concert—and where if one Member falls to the ground, the others, almost as a matter of course, fall with him. That is the principle, and has been the general practice, of the British Constitution; but that is not the practice of the United States. The Senate and the House of Representatives are not only elected at different periods by different bodies, but they represent totally different interests and different communities. The one represents the popular will, the numerical will, of the whole United States; the other, elected by a different constituency, chosen in a different manner, represents the interests of each of the States, giving each State equal value in the representation, whatever the extent of it. There is then a broad line of distinction, not only between the constituencies, but the principles upon which the House of Assembly and Senate are elected in America. Again, the Senate, once elected, is not liable to dissolution, from any extraneous quarter. The Senate exercises a very popular influence on all foreign negotiations. Its consent is requisite to treaties, and, by a wise provision of the original constitution of the United States, no fundamental alteration can be made in the constitution itself—which is a written document, plain and open to every one to read—no alteration can be made in the provisions of that constitution except by consent of two-thirds of each of the legisla-

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tive bodies—bodies acting under different impulses. Again, if such an alteration should be attempted, there is in the United States a very extraordinary power, a power which is exercised by the Supreme Court of the United States, which, despite of the Legislature—despite of the House of Assembly—despite of the Senate—has the power of pronouncing such Bill at variance with the constitution, and, being an unconstitutional measure, the legislation of both Houses is null and void. These are some of the guards—and they are not all—with which the United States have fenced in their republican Government. Let me contrast these precautions against hasty and improvident legislation with the Bill proposed by Her Majesty's Government for the monarchical institutions of Canada. The Members of the Legislative Council are to be elective; they are to be chosen by the identical constituency which chooses the House of Assembly. There is no variation, no difference whatever, except that two localities may be put together for the election of a Member of the Council, while each returns separately to the House of Assembly. The area may vary, but the constituency is precisely the same. The man remains subject to the same influence. Such a body cannot be considered any independent check whatever on the legislation of the House of Assembly. The Members of the Council are elected, it is true, for six years, and those of the House of Assembly are elected for four years; but are they, as the Senate of the United States, during that period free and independent, and able to exercise legislation as they may think best for the good of the Colony? No such thing. There is a provision in the Bill that if for two years the Legislative Council shall reject or so amend a measure passed by the House of Assembly as that the House of Assembly rejects it, the Legislative Council, on the advice of the executive Minister of the Crown having the confidence of the House of Assembly, is itself dissolved, and sent back for re-election to the same constituency as that by which the Members of the House of Assembly are elected. My Lords, I ask can any body of men, with this threat hanging over their heads, act with anything like independence or the exercise of their own judgment? Supposing they have so much self-respect as to determine, during the period they may sit in the Legislature, not to yield to that which

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they believe to be a dangerous demand, what can they do? For two years they may reject the measure, but in the third the House of Assembly is predominant—the House of Assembly advises the Executive Council, the Council advises the Governor, the Governor dissolves the Legislative Council, and the House of Assembly carries everything its own way. I will not compare that mode of exercising judgment and the mode of exercising it by your Lordships' House; I am quite aware of the difference of the two bodies—but is there any Peer so degraded, so little conscious of his duty as a legislator, as to consent to undertake those duties, supposing it possible that, after two successive years, your Lordships, having rejected or amended a measure of the House of Commons, should be compelled to go for re-election to the very body which returned the House of Commons, whose Bills you had ventured humbly to take the liberty of amending? What, I say, would be the situation of England under such a system? The result of that system must be to introduce nothing more nor less than a republic—the absolute independence of the House of Assembly, elected by large constituencies, and having no effective control which by possibility can be exercised over it. But it may be said there are safeguards with regard to the Legislative Council. They must be of the age of thirty. I am afraid men of thirty are fully as dangerous legislators as between the ages of twenty and thirty. I do not conceive mere age itself is any security for great vigour of legislation or great prudence; and I am afraid we have seen some signal instances to the contrary. But then they are to be possessed of property to the extent of 1,000*l*. That, you say, is something—they are to be men of some substance and property. If, however, they shall have sat in the House of Assembly for a single hour, that qualification of being possessed of property to the amount of 1,000*l*. is dispensed with, and a man is enabled to sit in the Legislative Council of Canada, though he be not possessed of a shilling. But as the law stands at present the Members of the House of Assembly must have a property qualification. That is some check, which Her Majesty's Government do away with in this Bill. They abrogate that property qualification, and, laying great stress on the security afforded by the property qualification of the Legislative Council, they

first provide that, in Members who have sat in the House of Assembly it shall not be requisite, and then abrogate the property qualification of Members of the House of Assembly which now exists. Now, my Lords, I think that I have mentioned the principal provisions by which it is proposed that the new Council should be constituted which is to carry on the affairs of the Colony of Canada. There are two Houses elected by the same constituency, the Members of one elected for six years, and of the other for four years, neither requiring any property qualification (for that will virtually be the result of this measure), and one liable to be dissolved within two years if it does not consent to the measures of the other. I ask your Lordships, is it possible legislation can go further in the way of destroying every check, every control whatever which the Government can hold over colonies possessed of free institutions? I say, again, if you mean to abandon all control over the Colony of Canada, say so at once. Bring in a Bill to declare that the Crown will not interfere except through the Minister of Canada, that the House will not interfere, and in no case will Parliament interfere, with the Legislature of Canada. That is intelligible; but it is not intelligible that you should vest in us a discretionary authority which makes us liable for sanctioning their acts, and then bringing in a Bill, without reason assigned or cause alleged, which absolutely revolutionises the whole constitution of the Colony.

Now, my Lords, I turn to the despatch of Lord Elgin, upon which it might be supposed that Her Majesty's Government really found some justification for this measure. That despatch was received in July last, and we are now for the first time made acquainted with it. I am the last man to say a word against Lord Elgin, for I had the honour of first introducing him into public life, by appointing him Governor of Jamaica. I have a great admiration for his ability and prudence; but I cannot help saying and feeling that, great as has been the success of Lord Elgin in the administration of the affairs of Canada, the leading principle on which Lord Elgin has acted has been concessions one after another to popular demands—concessions which would enable him to lead an easy life. How does Lord Elgin write to the noble Duke opposite (the Duke of Newcastle). But I must read first the concluding paragraph of the address of

the Legislative Council of Canada to Her Majesty, which Lord Elgin incloses—

"We crave permission, may it please your Majesty, to express our fears that should any scheme of the nature adverted to be unhappily adopted, safeguards long held indispensable against hasty and inconsiderate legislation would become inoperative; jealousies would be fostered between bodies, each equally assuming to represent the people, and the chances of collision between them increased; the balance of power in the State would become precarious and subject to frequent disturbance; and further elementary changes would soon be demanded of a democratic character, to an extent, perhaps, which this House is unwilling to contemplate."

I concur in every word of that wise, prudent, and temperate expression of the opinion of the Legislative Council. A corresponding address from the Legislative Assembly is accompanied with a despatch from Lord Elgin, dated in July last, in which he says—

"A proposition which goes to effect a fundamental change in the composition of one of the branches of the Provincial Legislature affords most unquestionably matter for very serious consideration; and it is, moreover, no doubt true, that independently of the important question of principle involved in the measure which is submitted by the Assembly for Her Majesty's approval, difficulties of execution and detail of a very formidable character present themselves, when the attempt is made to combine two elective Chambers with a system of government conducted on the rules of British constitutional practice; difficulties, it may be observed, for which no solution is afforded by precedents drawn from the United States, inasmuch as Parliamentary government and Ministerial responsibility, in the British sense of the term, are unknown to the constitution of that country. Nevertheless, I feel it my duty, in transmitting this Address, to state that I know of no expedient which is so likely to impart to the Legislative Council the influence which it is most desirable that it should possess as the substitution of the principle of election for that of nomination by the Crown in the appointment of its Members."

The objections are stated most emphatically and most forcibly by Lord Elgin; but then he turns round and says, nevertheless, on the whole, he sees nothing so expedient as the adoption of the elective principle. He proceeds—

"According to the plan which is sketched in the inclosed address, the Members of either House of the Legislature will be returned by the same constituency. Exception may doubtless be taken to this arrangement; but, in the absence of any unobjectionable scheme for the election of Members of the Legislative Council at two degrees, I am disposed to think that on the whole it is better that they should be elected by the constituency which elects the Members of the Legislative As-

sembly, than that a pretence should be afforded for raising a prejudice against the former body, and weakening its moral influence by the allegation that it represents only a privileged class."

I must say the reasons assigned in the despatch of Lord Elgin are the very reasons which would induce me to reject this Bill, and retain the wholesome check of the Legislative Council, which it is not pretended in later days has been abused or perverted to improper purposes. Lord Elgin affords us no reason for this measure except this: that his Ministers are chosen from the more liberal portion of the community, who have a majority in the House of Assembly; and so no plan is so simple for doing away with any objection on the part of the Legislative Council as converting the Legislative Council into a mere echo of the House of Assembly. No doubt that is a very easy mode of simplifying the difficulties of a Governor General, and saving the work of an overworked Secretary of State for the Colonial Department. But the question is, not how to smooth the difficulties of a Governor General, or how to make the work easy for a Secretary of State, but how to enable the Colony of Canada to have its government carried on in a spirit consistent with monarchical institutions, and preserving something like the direct control of Parliament. The noble Duke will tell me there still remains a veto of the Crown on any measures that are passed. But, I would ask him, does he rely on that for any effective safeguard or any real control? If, when legislation is so objectionable, that you must be bound by the wish of the Legislative Assembly of the Colony, and come to Parliament and ask them to make themselves parties to a measure they disapprove rather than thwart the wishes of the Legislative Assembly of Canada, what probability is there, in any conceivable case, that a Minister who comes with such a request will advise the veto to be exercised in cases where the measure has passed, not the Legislative Assembly only, but the Legislative Assembly and the Legislative Council together, and has received the sanction of the Governor of the province? The authority of the Crown in this country does not depend upon the veto which Her Majesty theoretically possesses to impose upon Acts of Parliament after they have passed, but upon the right and proper influence which she exercises over her Ministers, and through them over both branches of the Legislature, which gives her the

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opportunity of exercising her judgment upon measures before they have been submitted to Parliament, not after they have received its assent; and it rests also upon that fixed character of our Constitution, which renders it the interest, not to say the paramount duty, of every Minister so to shape his course as, if possible, to keep the two Houses of Parliament in harmony, and not to throw himself absolutely and entirely into the hands of one branch of the Legislature, regardless of the wishes and feelings of the other. So it is in Canada; and therefore it is the duty of the Governor General not to sanction measures framed by the Legislative Assembly alone, indifferent to the wishes, opinions, and feelings of the other body, which depends for its appointment in the first instance upon the Crown, but which is afterwards perfectly and absolutely free and independent. That principle must and will prevail if England is determined that, so long as Canada remains a colony of this country, its constitution shall continue upon its present basis. If the Governor General knows that you are determined not to suffer a violation of that constitution, and that the two branches of the Colonial Parliament shall remain each within its proper functions, not encroaching upon those of the co-ordinate authority with which it is associated—if the Governor General knows that such is the determination of the British Parliament and the British Minister—it will become a necessity for him and for his Government so to frame their measures as to obtain the assent of both branches of the Legislature, and not of one only. But if, on the contrary, the Governor General is to be told that the Legislative Council is not to be supported by the British Parliament, that it is to be made subordinate to and the mere echo of the Legislative Assembly—liable to be dissolved, after a period of two years, if it ventures to differ from that Assembly—of course the whole of the Governor General's measures will be framed so as to meet the views of that body which exercises the only real power in the Colony, as the Council will be easily got rid of by an appeal to the same constituents as elected the Assembly. The differences between the two bodies will be thus extinguished, but the independence of the Legislative Council will be extinguished also. But it is said that it is difficult to obtain persons properly qualified willing to take seats in the Legislative Council. I think the fact is very likely to be so; but why is it so? You

may depend upon it that you will never get the best class of men to accept seats in the Legislative Council, if the Crown or the Governor General does not give due weight and influence to the deliberations and authority of that Council, but persists in treating it as a body to be overruled whenever it sets itself in opposition to the Legislative Assembly. I do not wonder that you cannot get men to accept seats in the Council upon such a tenure, even from among the most devoted servants of the Crown; for who would make a sacrifice of personal convenience, perhaps of private friendships, for the purpose of maintaining the authority of the Crown, and upholding the monarchical principle in Canada, while they are placed in a position dependent upon the opinions of the Assembly? If you want intelligent and respectable men to devote their time and attention to public affairs in the Colony, by becoming Members of the Legislative Council, you must give them an assurance that, so long as they are right, so long as they have a just principle to stand upon, they shall have the cordial support, not only of the Governor General of the Colony, but of the Government and Parliament at home. Depend upon it that if you give to the Legislative Council that weight and consideration, and that influence upon the legislation of the Colony which the constitution says belong to it, there will be no lack of men willing to take seats in that branch of the Legislature; but if you make the Members of that body the mere tools and instruments of the Legislative Assembly for passing radical and democratic measures, you will never persuade the highest class of colonists to accept the office upon such conditions.

In speaking of the safeguards with which the United States have surrounded their republican institutions, I mentioned as one the necessity for more than a bare majority to carry into effect any fundamental alteration in the constitution itself. That wise precaution, together with a property qualification, was introduced into the Constitutional Act of Canada, so that no measure altering the constitution of the House of Assembly could be carried into execution, unless upon the second and third reading of the Bill there was a majority amounting to two-thirds of each of the legislative bodies in favour of the proposed change. I think that was a judicious and wise security to take against hasty and ill-considered alterations; but the present Bill,

while it throws away all other securities, formally abolishes and abrogates that security also, and provides that a bare majority of the Legislature may make such alterations in the constitution of the Colony as it thinks fit. So that any change may be made at the mere will and pleasure of the Legislative Assembly, through its obedient instruments the Governor and his Executive Council. There was one other provision of the Bill to which I intended to advert; but I think I have already laid before your Lordships sufficient grounds for pausing, at all events before, at this period of the Session, you accept yourselves, and call upon the other House of Parliament to accept, a measure so fundamentally, and, as I think, so injuriously, affecting the condition and constitution of one of our most important colonies. But, supposing you pass this Bill, how is it to be carried into effect? I imagine that even Her Majesty's Government would not propose that the mere Act of the Legislative Assembly alone should carry a measure which fundamentally alters the constitution of the Colony. I presume you must obtain the assent of the Legislative Council to this measure before you put it into execution. But the Council has already recorded in very plain terms its determination not to sanction or to carry out a measure which entirely changes the constitution of its own body. The Council consists of not less than twenty-four members. Are you prepared to deal with the recalcitrant councillors, and to make such an addition of new members who will be willing to enter into your scheme as will enable you to carry your proposal into effect? If you pass this Bill and send it over to Canada, without taking measures to ensure its acceptance by the Legislative Council, observe what you do—you perpetuate a conflict between the two branches of the Legislature upon a question affecting the constitution of that part which alone is interested in upholding the rights of the Crown. It is true, you may get rid of the difficulty by putting into the Council a sufficient number of new Members to overrule the present majority. If this Bill were passed, you might then proceed in a very simple manner; for it is only requisite for the House of Assembly to send any Bill of any kind to the Legislative Council; then for the Bill to be amended there, and for the House of Assembly to reject it with its amendments; and then at the expiration of two years to dissolve the Council, with the consent of

the Executive Council; and then you will get a more subservient Council. Or, thirdly, you might proceed to appoint a body for the purpose of committing political suicide, by declaring itself dissolved after it had decided that its successor should be elected by the colonists, not nominated by the Crown. Any of those modes you may adopt to carry your proposal into effect; but, in the meantime, what becomes of the existing rights of the Legislative Council? The Members of that Council hold their appointments from the Crown under the authority of Parliament, and those appointments are for life or during good behaviour. Indeed, they hold their seats in the Council by a tenure as valid as any one of your Lordships holds his seat in this House; and yet you are asked to pass a Bill which will deprive them at once, or in two or three years, of those rights which, under the sanction of the Crown and of the constitution guaranteed by Parliament, they have a right to enjoy during their natural lives. I do not ask you to reject this Bill; but I do entreat you not to take upon yourselves, by passing this Bill, the serious responsibility of effecting such a change in the constitution of the Colony, and of calling upon the other House of Parliament at the end of June, overwhelmed as that House is with business, to assent at once to a measure the ultimate and remote consequences of which it is impossible to foresee, although I believe those consequences will be even more formidable than my worst apprehensions lead me to anticipate. Do not imagine that this is a Bill affecting Canada alone. When you have sanctioned this measure for Canada, the whole of your North American provinces will come forward with a similar demand. The spirit of democratic encroachment is the same throughout the world. Give it the means of obtaining power, and it will not hesitate to stretch out its hand to grasp more and more: and if you show in the case of an individual colony that the remonstrances of the Legislative Council have availed nothing, that the opinions of the Legislative Assembly have availed everything, and that to the clamours of that body you are prepared to sacrifice the existing constitution of the Colony, you may depend upon it that many years, probably many months, will not elapse before from all your North American Colonies you will receive the same petition to be placed upon the same footing of an elective Council—a

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Council acted upon and permeated by popular influences, the monarchical influence being altogether extinguished. Such a demand, I apprehend, must be a necessary consequence of passing this Bill. Now I know that there are those who treat lightly the separation of the Colonies from the mother-country; but, for my own part, I am one of those who would deeply regret that separation, although in the course of time I anticipate it, as the natural result of the growth and progress of democratic principles. I anticipate that the time will come when the great North American Federation, if I may so call it—the great aggregate of the North American Colonies—will take upon itself the entire and independent control of their own affairs, and will be, if not nominally separate, at all events practically and virtually separate, and independent alike of Parliament, of the Government, and of the Crown. I trust, however, that even in such a state of things that great federation will remain in perfect harmony with this country, bound by ties of loyalty to the same Sovereign, although that sovereignty may be but nominal; but that community of feeling, that community of interest, cannot exist if you pass a measure by which you deprive the most important of all your North American Colonies of everything which assimilates it in the slightest degree to the constitution and monarchical institutions of this country, and place its inhabitants in a position similar to that of their immediate neighbours, with whom they are every day in habits of closer connection and more constant intercourse. I have dreamed—perhaps it was only a dream—that the time would come when, exercising a perfect control over their own internal affairs, Parliament abandoning its right to interfere in their legislation, these great and important colonies, combined together, should form a monarchical Government, presided over either by a permanent viceroy, or, as an independent Sovereign, by one nearly and closely allied to the present Royal family of this country. I have believed that in such a manner it would be possible to uphold the monarchical principle, to establish upon that great continent a monarchy free as that of this country, even freer still with regard to the popular influence exercised, but yet a monarchy worthy of the name, and not a mere empty shadow. I can hardly believe that under such a system the friendly connection and close intimacy

between the Colonies and the mother-country would in any way be affected; but, on the contrary, I feel convinced that the change to which I have referred would be productive of nothing, for years and ages to come, but mutual harmony and friendship, increased and cemented as that friendship would be by mutual appreciation of the great and substantial benefits conferred by a free and regulated monarchy. But pass this Bill, and that dream is gone for ever. Nothing like a free and regulated monarchy could exist for a single moment under such a constitution as that which is now proposed for Canada. From the moment that you pass this constitution, the progress must be rapidly towards republicanism—if anything could be more really republican than this Bill. The next step is an elective Governor; and after you have passed this Bill, I do not know that an elective Governor would not be perfectly and absolutely unexceptionable. I should undoubtedly object now to an elective Governor; but after you have passed this Bill, it matters not whether you have a Governor sent out from this country, and bound to act upon the advice of his responsible councillors, or whether, as in the United States, you had a Governor elected by the free suffrages of the people over whom he has to rule. But, my Lords, I do not ask you to reject this Bill altogether, and at no time to listen to the petition which has been laid before us, and therefore I will not pursue that question any further. But I say that if Canada, if the North American Colonies, increasing in wealth, in population, and in importance, desire to separate from this country, in God's name let us part on terms of peace and friendship. Let us not wrangle with them as to the conditions upon which we are to separate; but let them well understand that the passing of this measure, considering the relationship in which Canada stands to this country, and the nearness, on the other hand, of their republican neighbours, must inevitably and indisputably lead to the adoption of republican institutions, and must as inevitably and indisputably lead to an early separation from this country. I will leave these considerations with your Lordships, with the other House of Parliament, with the Colony, and with the people of this country. Do not let the demand of the Minister, on the scanty information which he has given to you, the interests of party, or any other motive

whatever, induce you, at the close of the Session, overwhelmed as you are with other business, to pass hastily a measure which cannot fail to produce the results which I have stated to your Lordships, and from which there is no appeal. I do not ask you to pronounce a positive and absolute denial to the wishes of the Colony if they are anything more than the wishes of the Legislative Assembly; but I entreat you to postpone the adoption of this measure—to delay your final judgment upon this weighty and important question—until both the Colony and yourselves have had full opportunity calmly and deliberately to weigh all the consequences involved in it, and not to pass, in the course of the present Session, a Bill which, if it is carried through Parliament, you will have the mortification to feel has inflicted great injury upon one of the most important colonies of the Crown.

Amendment *moved*, to leave out “now,” and insert “this day three months.”

THE DUKE OF NEWCASTLE: My Lords, before I proceed to make a few observations with reference to the opinions expressed by the noble Earl, both upon the general principles which have induced Her Majesty's Government to introduce this Bill, and upon the provisions of the Bill itself, I think it is incumbent upon me to say a few words with regard to the remarks made by the noble Earl at the commencement of his speech, when he thought it necessary to explain why, instead of opposing the Bill upon the second reading, he took the course, unusual as he admitted it to be, of opposing our going into Committee upon it. I do not complain of the course taken by the noble Earl; but I think it right that I should explain to your Lordships what the noble Earl seemed to think a mistake or neglect on my part. The noble Earl said, in the first place, that he thought, in introducing a Bill of this importance to the House, I should have acted more in accordance with propriety, and with what was due to your Lordships, if, instead of simply laying the Bill upon the table without a word of explanation, I had made a statement of its provisions. But I apprehend that none of your Lordships are ignorant of the fact, that the almost invariable practice in this House is, to do as I did upon that occasion—to present a Bill *sub silentio*, and to state its provisions, and to enter into a discussion upon it, upon moving its second reading. Since I have had the honour of

a seat in this House, I recollect only one instance, and that a Bill of very trifling importance, in which this practice was departed from, and upon that occasion the noble Earl who departed from it was called to order. The noble Earl cannot point out any Bill of importance in which that practice has been departed from; and although I am ready to admit that, if many Bills were introduced into this House, instead of into the other House of Parliament, it might be convenient to alter the present practice, yet I presume that so long as that practice is allowed to exist, I cannot fairly be censured for acting in accordance with it on this occasion. The noble Earl then complained that certain papers had not been presented to the House until I moved the second reading of the Bill. I readily admit that that was an error on my part. I regret it; but certainly I laboured under the impression—arising, probably, from my having seen the most important of these papers in print—that they had been laid on the table of both Houses, instead of on the table of the other House only. With respect to the draft of a Bill which we received from Canada, I did not think it was necessary to lay that document upon the table, because the Government having resolved—not to adopt that measure or any other measure affecting the permanent constitution of Canada—but simply to yield up to what we believed the proper body, the Canadian Legislature, the exercise of power which now belongs to the Imperial Parliament, and as we had resolved to introduce simply a permissive Bill, I was apprehensive that the production of the draft Bill which was sent to us from Canada would induce your Lordships to believe that it had the approbation and support of the Government. I will not enter into any discussion upon a point on which the noble Earl dwelt with some emphasis—that the papers which were laid on the table of the House of Commons were presented, not by the authority of the Government, but upon the Motion of an independent Member. I apprehend, that in whatever way the information came before Parliament—whether by the command of Her Majesty, or on the Motion of a private Member—the important thing was, to know what the documents contained, and the opinions expressed in them. The noble Earl then proceeded to comment upon the interval which occurred between the receipt of Lord Elgin's despatch, inclosing the ad-

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dress from both branches of the Canadian Legislature, and my reply. Now, I give the noble Earl the benefit of any advantage which he thinks he may obtain from that observation. The facts were simply these:—The Session of the Canadian Parliament was over before the receipt of Lord Elgin's despatch, and that Parliament was not bound to meet again until the 13th of the present month of June; so that it did not matter whether I replied within one day of the receipt of the Addresses, or six months afterwards, so far as regarded the communication of the information which I wished to convey to the bodies which had presented them. As I stated on a former occasion, although I was in possession of the opinions of the Governor General, as expressed in the despatch from which the noble Earl has quoted, yet, knowing that Lord Elgin was coming over to this country, I thought it was desirable that I should have the benefit of personal communication with him, in order to ascertain more fully his views upon the subject than it was possible to do if I had requested further explanations by letter. The noble Earl having disposed of these points, proceeded to ask what was the question before the House, and then entered into an elaborate discussion, both of the general principles upon which the Bill is framed, and the provisions of the Bill itself; but the noble Earl concluded by saying that he did not ask your Lordships to reject the measure, but only to postpone it to another Session, in order to enable the Colony whose interests are affected by it maturely to consider the question involved, and to enter upon a fresh agitation, and decide whether or not they intend to adhere to their former opinions. Now, if I understand the noble Earl aright, that is the ground upon which he proposes to postpone the Bill for the present Session; and, although he stated broadly and strongly various objections to the principle of the measure, which undoubtedly would have justified an open rejection of the Bill upon its merits, instead of a mere postponement, yet, having concluded his speech by saying that he meant not rejection, but postponement, I think I have a right to claim the votes of those Peers who are prepared to support such a view; because I am prepared to show that the people of Canada have already maturely considered this question, and have expressed their opinions upon it, and that, unless we act upon our own judgment, or from a

spirit of strong opposition to the principle of the Bill, it would be desirable on all accounts that we should concede to the Parliament of Canada that power which at present belongs to the Imperial Parliament. The noble Earl said that this was another step in the course of legislation which the Parliament of this country has been pursuing for some time past. I am not prepared to deny that statement. The noble Earl quoted two examples—first, the Rebellion Losses Bill; and, secondly, the Clergy Reserves Bill. With respect to the first, he said that, under the Rebellion Losses Bill compensation was given, not only to those who had suffered on the part of the Crown, but likewise to those who had opposed the legitimate rights of the Crown. Now, I think I may fairly cite the Rebellion Losses Bill as an argument in favour of the present measure; because even if there was a vicious principle in that Bill, the confidence shown upon that occasion in the people and Legislature of Canada was not misplaced; and I defy the noble Earl, whatever he may say with reference to the principle of the Bill, to maintain that the measure was not carried out with every deference and respect for the laws and sovereignty of this country. I am not prepared to vindicate the principle of that measure. I do not recollect whether I voted for it in the House of Commons, or not; but I know that I disapproved of it, and if I did not vote against it, it must have been in consequence of my temporary absence from the House. It cannot be doubted, however, that those in whom we placed confidence upon that occasion showed that they were worthy of it. The noble Earl then proceeded to comment in the same sense upon a Bill which your Lordships passed last year, with respect to the clergy reserves. Here the noble Earl certainly made a most extraordinary statement, for he said that hopes were held out in this House, that, if we gave the power in question to the Colony, it would not be exercised inimically to the interests of the clergy. That, undoubtedly, was true; but he then proceeded to say, that the very first step taken after the passing of this measure, was an attempt to secularise these reserves. I do not know from whence the noble Earl has derived his information, but I can assure him that, having held the seals of the Colonial Office from that time until ten days or a fortnight ago, I not only have not heard of any attempt on the part of the Canadian Legislature or Go-

vernment to secularise these reserves; but I am enabled, from conversations I held with Lord Elgin and Mr. Hincks, when they were in this country, to give the most positive contradiction to the statement that any such attempt has been made. I still entertain the hope which I expressed last Session, that the clergy reserves must in future be classified; but they have not been classified yet, and I can assure the noble Earl and the House that the subject has not even been mooted in the Parliament of Canada, and I have every reason to believe that there is at present no intention of making any such attempt. The noble Earl, towards the close of his speech, referred to an anticipation which he entertained—he called it a dream—that at some future time, when that event occurred, which, in answer to a noble Friend of mine, I ventured to deprecate a few days ago—namely, the separation of the Colonies from the mother-country—a new monarchy might be formed in the North American provinces, the Sovereign of which might be a near relative of our gracious Queen. I will not discuss the noble Earl's dream; but I will say that when he asserted that if we pass this Bill that dream is gone for ever, he was labouring under a considerable misapprehension. I deny that his dream is affected by this Bill in any way whatever—unless, indeed, the effect of the measure should be to increase the securities of the new monarchy, and to strengthen its associations and connection with this country. In one of the quotations which the noble Earl read, he gave us some instances of the necessity of having two legislative bodies in the Colony. He did not express any opinion upon that subject himself, and I apprehend that, however much the noble Earl and the Government may differ upon any other topic, we are entirely agreed upon that. We are at one in thinking that two Houses are necessary and essential to the practical and harmonious working of the English Constitution, whether as established in this country or engrafted in any of our Colonies. So far, then, we are agreed; but what is the principle of this Bill; or, in the first instance, let me ask, why do we require an Upper Chamber? It is undoubtedly in order to secure, in the legislative and social condition of the country, that conservative element which is supposed to exist in your Lordships' House, and the object is, by means of a second Chamber, to check that hasty le-

gislation which is no uncommon characteristic of a popular assembly. But I apprehend that a second Chamber can be of little use for that important purpose, unless it possesses and maintains the respect of the community of which it forms an important element. I stated upon a former occasion that, so far from the Legislative Council of Canada being respected as a body—as individuals I believe they are among the most highly respected gentlemen in the Colony—they do not in any degree possess the esteem or respect of the community. To such an extent is that carried, that it is exceedingly difficult, when vacancies occur in the Council, to obtain the consent of any gentleman to enter it. The noble Earl, in replying to this, said, that doubtless, if the Governor General showed no disposition to support the voice of the Council, it was possible it might fall into disrepute. I hope the noble Earl did not intend that as a reproof to the Governor General of Canada, because I can assure him that Lord Elgin knows his constitutional position too well to have thwarted, in any way, either of the branches of the Canadian Parliament, and that in this country he has respected the rights and privileges of the Legislative Council to the fullest extent to which he has respected those of the Legislative Assembly. But what I say is, that unless the Legislative Council, no matter how formed, possesses the respect of the community, it loses that character of conservatism which is its proper attribute; and instead of being conservative, it becomes only obstructive. I apprehend there is nobody on either side of the House who will believe that these are convertible terms; I trust that every one of your Lordships will appreciate the distinction which I am anxious to draw between a body which, having ceased to possess the confidence and respect of the country, is calculated only to obstruct legislation, and that body which, possessing the confidence and respect of the community, is enabled to evince its conservatism by preventing hasty legislation, and refusing its assent to measures of a violent and dangerous character. The noble Earl has left your Lordships to understand that he looks upon a nominated Upper Chamber as being to as full an extent as possible an imitation of your Lordships' House. Now, I believe it is perfectly futile to attempt in the Colonies any imitation of your Lordships' House. To a certain extent the form might be imitated;

but it would be in form only, for the substance would be entirely wanting. In my opinion, an elective Chamber, if composed of persons possessing requisite qualifications, would possess a higher character than a merely nominated Chamber. I am aware that with respect to your Lordships' House an opinion prevails to some extent out of doors that the agricultural is the only interest here represented. No doubt, a considerable number of the Members of this House are possessed of a large amount of landed property; but if we look at the constitution of this House, it will be found that not only agriculture, but commerce, manufactures, and every other interest in a subordinate degree, is represented here; and no question can come before your Lordships which does not meet here a fair representative on every occasion when such interest requires to be represented. This body, however, although originally nominated by the Crown, possesses qualifications which no Upper Chamber of any colony has ever yet obtained, or can hope to obtain, without a ridiculous aping of your Lordships' House—I mean its hereditary character—the Assembly possesses a hold on the respect and affections of the people by means of its traditionary and hereditary character. This is what no nominated Assembly can ever hope to possess. There are many who object to hereditary legislators; but I think few will be found to deny that hereditary legislators appear to advantage in comparison with nominated legislators; and of this I am convinced, that if we were to sit here merely as a nominated body, we should be looked upon by the great bulk of the people as the mere tools of the Government of the day, and should be deprived of that respect which alone enables us to exercise properly our functions and our duties. The names of Stanley and Howard are still borne by Members of your Lordships' House, and the services rendered by their ancestors come in aid of those who now bear those honoured names in the execution of the duties which devolve upon them, and give an additional charm to the brilliant eloquence and ability which they evince in debate, and enhancing the spotless private character which they are known to possess out of your Lordships' House. It is impossible, I say, for such qualities to exist in any nominated Upper Chamber. Such an Assembly becomes, as we have seen in the Colonies, more distasteful to the community year by year,

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until finally its members are regarded as the mere tools of the Government in our Colonies. The only alternative, therefore, for the good government of the Colonies is that of an elective Upper Chamber; but if you are to have these Chambers, it will be necessary to fence them round with provisions which shall serve as correctives to the hasty and inconsiderate legislation of the more popular Assembly. Among those conservative elements which it is proposed to introduce into the Upper Chamber in Canada is that of a property qualification. It cannot be denied that the possession of property is an element of this kind; and yet the noble Earl appears to have commented with severity upon the circumstance that we propose to establish a higher property qualification for the Upper Chamber than for the Legislative Assembly. Another element which it is proposed to introduce is that of age, as the Bill provides that no person under thirty years of age shall be eligible to a seat in the Upper Chamber. The noble Earl will not deny that this condition of age is valuable as a conservative safeguard; he will not deny that a man at the age of thirty is more likely to have his opinions formed, and not to be so easily led away by popular theories as he would be at the age of twenty-one. He will not deny that he has himself become in his later years more conservative than he was when a younger man; and if that process has taken place in the noble Earl, he will surely agree that it is but fair to suppose that others who, like him, attend to public affairs, may make brilliant Members of the Legislative Assembly at twenty-one, and at thirty may become ornaments of the Legislative Council, and maintain with ability those conservative opinions which possessed less influence over them at the earlier period of their lives. A third safeguard which is proposed is that of the longer occupation of a seat in the Upper Chamber. By the proposed arrangement a portion of that body only will be elected at one time; and the time at which their election will take place will be different from that at which the Members of the Legislative Assembly will be elected. This will have the effect of preventing the whole body of the two Chambers being elected under the influence of some one strong popular feeling that may prevail at the time of the election. I confess that I attach very great importance to this part of the proposal. A fourth guarantee is

one which, though not of such great importance, is still undoubtedly of great value, and that is, that the number of Members of the Legislative Council should be considerably smaller than that of the Legislative Assembly. The noble Earl has quoted the opinion expressed by the Legislative Council last year on the subject. I will also call your Lordships' attention to the address of the same Council. The address states—

"We would respectfully represent to your Majesty, that to refer the selection of Members of the Legislative Council to the popular vote, is to destroy that harmony of system upon which, in accordance with the theory of the British Constitution, the Government of this country has hitherto been considered to rest; and by thus discarding the principle of appointment by the Crown, which has hitherto been deemed essential to the maintenance of a due balance in the State, to bring the Royal authority into direct contact with two Houses, both deriving power from and responsible to the people. We crave permission, may it please your Majesty, to express our fears that should any scheme of the nature adverted to be unhappily adopted, safeguards, long held indispensable against hasty and inconsiderate legislation, would become inoperative; jealousies would be fostered between bodies, each equally assuming to represent the people, and the chances of collision between them increased; the balance of power in the State would become precarious and subject to frequent disturbance; and further elementary changes would soon be demanded of a democratic character, to an extent, perhaps, which this House is unwilling to contemplate."

I quote this sentence to show how very little the Legislative Council must really have weighed the matter, when they could oppose two such antagonistic objections to the plan for the constitution of an elective Legislative Council. How could a collision between the two bodies ensue if there could be no check given by the one or the other. I may also refer to some other opinions expressed on this subject which are entirely at variance with those laid down by the noble Earl. The noble Earl endeavours to show that these two bodies are really already so entirely accordant in opinion that they will co-operate together in all measures, however violent. What, however, is the opinion of those who, living in the Colony itself, are not unlikely to be able to form as accurate an opinion of the consequences of such a measure upon the community as the noble Earl or any of your Lordships? When these Resolutions were proposed in the Legislative Assembly of Canada, a certain gentleman of very strong democratic opinions—a Mr. Brown—was so apprehensive of the strong conservative or monarchical character of this

measure that he proposed not less than three different Amendments to get rid of that principle. In the first place he considered—

“That the rapid changes which experience has shown continually to take place in public sentiment, the difference in the electoral divisions for which the Members of the two Chambers respectively would sit, and the different terms for which they would be elected, leave no reason to doubt that the political views of the majority of the Lower House would frequently be in direct opposition to those of the majority of the Upper House; that when such variance of opinion occurred in the political views of the majorities of the two Chambers, an address of want of confidence from one House might be met by a vote of confidence from the other House, and the Executive would be left practically uncontrolled; that when such variance in the opinion of the two branches occurred, the responsibility of the Ministry of the day, for the right conduct of all public affairs, legislative and executive—so absolutely essential under the British constitutional system—would cease, for the time being, as no party administration could, while such variance existed, command a majority in both bodies, and the measures deemed necessary by Government could only become law by the consent of its political opponents. That two elective Chambers are utterly incompatible with British responsible government on the British system, and that the great power intrusted under that system to the Ministry of the day, could not be safely continued under the relaxed restraint which two elective Houses would entail. That no urgent necessity calls for a change of the constitution of the Legislative Council—that no practical evil exists which such a change would remove—and that there is no practical end now sought to be attained and found unattainable, which such a change would render attainable. That in consideration of the foregoing, and in view of the rapid social and material progress of the country, which cannot fail to affect the working of any political system, it is not expedient to make any change at present in the organisation of the Legislative Council, but it is advisable that means should be taken forthwith to render that body more efficient under its existing constitution.”

Mr. Brown was not successful in carrying this Amendment, the numbers being seventeen for, and fifty against it. I quote this decision to show how little desirous the Parliament of Canada was for adopting any measure of a democratic character. Still, so apprehensive was this democratic gentleman of the consequences of this measure, if passed, that he moved another Amendment, in which he expressed himself willing to get rid of the Upper House altogether, rather than adopt the change proposed. He accordingly proposed—

“That two elective Legislative Chambers are utterly incompatible with British responsible government; that the great power committed under that system to the Ministry of the day could not be safely continued with two elective Houses, and

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would render necessary the imposition of checks on the power of the Executive known to other constitutional systems, but totally inconsistent with British party government; and that, in view of the declaration of the majority of this House that some change in the existing constitutional system of this province ought to be made, it is expedient that the Legislative Council should be abolished.”

This was defeated by fifty-eight against nine. Mr. Brown, however, was not yet disconcerted, and he proposed even a third Amendment—

“That the extensive powers intrusted to the Executive under the system of government which has obtained in this province since 1841, cannot be safely continued when ‘the well-understood wishes of the people’ shall be expressed by two separate Houses, elected by popular vote of different constituencies and for different terms; and that it is expedient to provide for restraining the powers of the Executive simultaneously with the creation of two elective Houses.”

So apprehensive was this gentleman that the power of the Executive would be increased, and the influence of the democratic power be diminished. I mention these Amendments in consequence of the quarter from which they came—for I must be permitted to say, with all respect for the talent, the ability, and the knowledge of the noble Earl, that, upon this occasion, I think I have a right to appeal with confidence from the Earl of Derby to Mr. Brown. The noble Earl asks, if we pass this permissive measure, how do we expect it will be carried into effect? My answer is, in that only way in which I wish to see it carried into effect—by the Government of Canada, when the people wish to obtain it. If the opinions of the people of Canada are against the measure, the Legislative Council of Canada will act upon their own independent opinions and resist it, precisely as your Lordships, in giving an opinion upon any measure, would do, until you were satisfied that it was the general wish of the country that such a measure should be passed, and then your Lordships would gracefully yield to that expressed opinion. So would the Legislative Council of Canada gracefully yield, when they knew that it was the wish of the people of that Colony that this measure should pass, and not before. I ventured to say, on moving the second reading of this Bill, that a measure of this description had been long required; and although the noble Earl has quoted an opinion to which I attach great weight, expressed in former years, as to the very serious nature of the question involving an alteration in the constitu-

tion of Canada, I nevertheless shall be able to show to your Lordships that this is not a new want expressed on behalf of the people of Canada, nor is it a new opinion expressed on their behalf by statesmen in this country who have considered the subject. But, before I proceed with this part of the case, allow me to premise that this is not a new principle, but it is following out a principle which has already been adopted, and which, I maintain, having been adopted in other cases, it would be most unfair to refuse to Canada. The noble Earl says, that if we pass this Bill, we cannot stop here. I really admit it. I admit that we ought to legislate for a principle, and not for any particular colony. The noble Earl says, if we give this measure to Canada, we cannot refuse it to the North American provinces. Why, it is a fact that some of the North American provinces have already expressed opinions in favour of having granted to them a similar measure; and not only that, but opinions have been expressed by the governors of those provinces in favour of conceding this privilege. Sir E. Head, a most eminent man, the Governor of New Brunswick, in a despatch in the year 1850, expressed an opinion that it would be desirable to grant a similar boon to that colony. This Bill is to enable the Canadian Parliament, if it thinks fit, to change its own constitution. A Bill was passed in the year 1850, giving—wrongly I think—to the Australian Colonies a single Chamber, but that was coupled with this condition—that each of those colonies should have the power to amend their own constitution and have a second Chamber. Some of those colonies have already availed themselves of that power, and it is a power which, being given by Act of Parliament, you cannot take away from them. Within the last fortnight the colony of Victoria has sent home a Bill, in which they have framed a constitution for themselves, one element of which is an elective Upper Chamber. But we have gone further than that. We have actually ourselves erected a second elective Chamber. An elective second Chamber has been given to the Cape of Good Hope. The noble Earl the other night split upon that rock, and he to-night has carefully avoided making any allusion to the Cape of Good Hope. I know that when the noble Earl was in office he did not object to the constitution with a second elective Chamber being given to the Cape of Good Hope;

and when on a previous occasion I alluded to this, the noble Earl said, that he allowed that constitution to pass on the ground that he was too late to object to it, inasmuch as that there was an Act of Parliament on the subject; but the noble Earl is wrong in that statement. There was no Act of Parliament in the case of the Cape of Good Hope. The constitution was not conferred by Act of Parliament. No Act was requisite. It was requisite in the important colony of Canada, but for the Cape of Good Hope an Order in Council was sufficient. The granting of the constitution was, however, by circumstances delayed till the noble Earl succeeded to power. What was then done? This was the whole question. Sir John Pakington wrote two despatches. In the first he stated that the constitution would be granted immediately; and in a despatch dated September, 1852, in which he assigned the reason why the constitution should not be given—I am not about to dispute the policy of withholding the constitution, although my opinions are well known upon that subject, for my very first act in succeeding to the Colonial Office was to issue that constitution to the Cape of Good Hope—but, in that despatch, Sir John Pakington showed that the whole question was open, and that the reasons for not granting the constitution at that time was the war which was then prevailing in the colony. [The Earl of DERBY: Hear, hear!] The noble Earl cheers; but I was going to show that, while that was stated in various shapes elsewhere, the noble Earl has never mentioned it in this House. I am not raking up these things with any hostile feeling, though, in referring to them, I am only following the example of the noble Earl, who quoted what had been said by Lord John Russell and Mr. Gladstone some sixteen or seventeen years ago. I have referred to what was said by Sir John Pakington only two years ago, and who proposed to do for the Cape of Good Hope that which we have not proposed to do for Canada; for he would give a second elective Chamber to the Cape of Good Hope, while we only propose to enable Canada to constitute a second Chamber for itself, if it should think proper to do so. The noble Earl quoted the opinion of Lord Durham upon this question; and I own I was astonished when I heard him refer to Lord Durham as an authority for a nominated Chamber. I know not what

opinion the noble Earl particularly referred to; he stated that he could not give me the date; I apprehend, therefore, that it must be some sentence taken from the Report of Lord Durham on Canada, printed in 1836. Now, I hold in my hand that very elaborate Report, and I will read to your Lordships some portion of it which refers precisely and specifically to this very point. Lord Durham in his Report said—

“The constitution of a second legislative body for the united Legislature involves questions of very great difficulty. The present constitution of the Legislative Councils of these provinces has always appeared to me inconsistent with sound principles, and little calculated to answer the purpose of placing the effective check which I consider necessary on the popular branch of the Legislature. The analogy which some persons have attempted to draw between the House of Lords and the Legislative Councils seems to me erroneous. The constitution of the House of Lords is consonant with a frame of English society, and as the creation of a precisely similar body in such a state of society as that of these colonies is impossible, it has always appeared to me most unwise to attempt to supply its place by one which has no point of resemblance to it, except that of being a non-elective check on the elective branch of the Legislature. The attempt to invest a few persons distinguished from their fellow-colonists neither by birth nor by hereditary property, and often only transiently connected with the country, with such a power seems only calculated to ensure jealousy and bad feelings in the first instance, and collision at last. I believe that when the necessity of relying in Lower Canada on the English character of the Legislative Council as a check on the national prejudices of a French Assembly shall be removed by the union, few persons in the colonies will be found disposed in favour of its present constitution.”

My Lords, I pause here for one moment to call to your Lordships' attention how accurate has been the prophecy of Lord Durham. The union has been attended with the results he anticipated, the antagonism between the French and the English has almost entirely disappeared, and those who thought an Upper Chamber appointed by the Crown was the only check and the only means to preserve the English connection with Canada, now find that by the union of the two colonies that is no longer requisite; that those changes of opinion which Lord Durham foresaw have taken place, and that the opinion of the people of Canada is now in favour of the very change which was formerly so strongly opposed. The Report proceeds—

“Indeed, the very fact of union will complicate the difficulties which have hitherto existed,

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because a satisfactory choice of Councillors would have to be made with reference to the varied interests of a much more numerous and extended community.”

Is there not good sense in this? While the difficulty is met by an elective Chamber, it must be seen that, on the other hand, it would be impossible for the Government to select a Chamber of nominees for Canada, without violating and offending those principles which Lord Durham has here so ably laid down. Lord Durham then proceeded to say—

“It will be necessary, therefore, for the completion of any stable scheme of government, that Parliament should revise the constitution of the Legislative Council, and, by adopting every practicable means, to give that constitution such a character as would enable it by its tranquil and safe, but effective working to act as a useful check on the popular branch of the Legislature, and prevent a repetition of those collisions which already caused such dangerous irritation.”

I think your Lordships will now be of opinion that my quotation of Lord Durham's opinions is worth more than the solitary sentence quoted by the noble Earl; and that, at any rate, I have a right to say that this is no new view—is no new opinion—but that it was espoused and announced so long ago as the year 1839 by one of Her Majesty's Ministers, who was expressly sent over to Canada for the purpose of reporting on the then existing state of things in that Colony. The noble Earl has objected to the power given to the Governor General of dissolving the Legislative Council. Precisely the same power is given to the Governor of the Cape of Good Hope. But the Government of Canada possesses exactly the same power at the present moment. If, under the existing system, he finds the two Chambers not co-operating, he has the power of dissolution, which is certainly a better mode than resorting to that not very elegant but expressive act called “swamping” the Upper Chamber. Although, unhappily, we have sometimes heard of threats of swamping the Upper House of Parliament, it is a threat which has never yet been carried into effect. For my part, I greatly prefer that the power of the Governor General should be exercised by open dissolution rather than, by the use of a secret and arbitrary power, of turning the majority of the Upper Chamber by pouring into it a certain number of nominees of the Crown. The noble Earl said that the veto would be no security. I readily admit that it would

not be an efficient security. It is not so now even in this country. The Colonies must be left to influences similar to those which operate at home, and I have no fear that the same effect would result. But it seems to me that the noble Earl throughout the whole of his speech was haunted by the apprehension of some great evil resulting from the bugbear of democracy. It was the same feeling which influenced him on his assuming the reins of power, when the noble Earl told us that he considered it to be his specific mission to check the torrent of democracy with which the world was threatened, and we all remember that it was said by some of his supporters that when the noble Earl should leave office then would come the deluge. Since then a change of Government has taken place—the noble Earl has been out of office for a year and a half. I appeal to noble Lords on the opposite side of the House, who do not agree with me in political opinions, whether they can seriously maintain that this change in the Government has brought on those rapid strides of democracy which the noble Earl, no doubt honestly, had anticipated. I believe, as regards this country, so with respect to Canada, these apprehensions may be dismissed. Of late years there has been greatly relaxed that hold over the Canadian Legislature, which Parliament had before professed to exercise most prejudicially to the interests of the Colony. I will refer to one instance. In the Union Act a provision was inserted granting a civil list to Her Majesty. The colony of Canada regarded that provision as indicating a distrust of their anxiety to maintain the monarchical institutions of the country, and on that ground objected to the provision. This country, not knowing the feelings of Canada so well as the colonists themselves, thought the objection a feigned complaint, and suspected that what Canada really wanted was the means of obtaining the power of getting rid of the civil list altogether. Nevertheless, in 1847, the right of settling the civil list was given up by this country, precisely as it is now proposed that Parliament should grant to Canada the power of legislating for the Upper Chamber. The Canadian Legislature immediately voted a civil list, and from that hour to the present I have not heard any grievances complained of on that subject, such as were almost continually arising so long as the Parliament of England interfered. A similar result, I an-

ticipate, will attend the proposed legislation on the present subject. To 1847 succeeded 1848, when all Europe was convulsed, and every democratic element of society was let loose; and what was the condition of Canada? So far from participating in the feelings that had brought about that convulsion, the French element in Canada, and the Irish element also in Canada—such was the reward of our new principle of legislation—remained quiet. I say that it was greatly due to the confidence shown in the people of Canada by the liberal legislation which the Imperial Parliament had begun to adopt, that the events in 1848, which created a devastating storm in Europe, failed to raise even a ripple on the surface of society in Canada. We now have the advantage of beholding the satisfactory effects of our recent legislation. The sentiments of the Canadians, which at one time were alienated from this country, are now entirely favourable to it; and, instead of the rancorous feelings of hatred which formerly prevailed between conflicting parties in that Colony, there is substituted that wholesome party spirit which exists in this country, and without which representative institutions could never be effectively worked. Further than that, the attention of the Legislature of Canada is now devoted to the passing of useful laws of every kind; and the noble Earl has referred to one consequence, as I believe, of our recent policy—the material prosperity of Canada within the last few years, the increase of which has been so great as to eclipse that of the United States. I agree with him in that; but the noble Earl may maintain that this prosperity was caused in spite of the legislation we had of late years adopted; but I contend that it is the result of that legislation, and therefore I call on the House to persevere in the same course. I am really ashamed to have trespassed upon your Lordships' attention so long. I have endeavoured on the present occasion not to deal with those explanations which I gave your Lordships on a previous stage of the Bill. I have rather sought to meet, however feebly, the objections raised by the noble Earl both to the general principle of an elective Upper Chamber, and specifically to the granting it to the colony of Canada; and I now entreat your Lordships not to agree to the Amendment of the noble Earl, whether it be intended as a final rejection of this measure, or whether

it be intended to give a *locus penitentiæ* to the Colony. For the latter purpose it is not required; and as regards the former, I am confident that it will be looked upon in Canada as a retrograde step on the part of your Lordships in legislating for that Colony. I am satisfied, if your Lordships pass this measure, that it will not be abused in the way which the noble Earl appears to apprehend; but, on the contrary, that it will form an additional link—if an additional link be wanting—in that chain of connection which, I believe, indissolubly binds that important and magnificent Colony to the parent State of England.

LORD ST. LEONARDS said, that this was one of the greatest questions that could come before the House in relation to colonial Government, for the noble Duke had explicitly admitted that if this principle was carried on behalf of Canada, a similar one must be applied to every other British colony. He (Lord St. Leonards) wished their Lordships to bear in mind that their vote on this occasion would decide the question whether every colony of Great Britain was or was not to be governed simply by an elective Assembly, uncontrolled by the Crown—for that was in reality the effect of the proposition—a form of Government by which no country had ever yet been governed with any good effect; or, in other words, whether the existing ties were to be severed between the mother-country and the colonies at large. It was alleged by those that supported this Bill that it was merely a permissive measure, and that of itself it would not have the effect which was apprehended by those who opposed it. But Her Majesty's Government knew that the act apprehended on this side of the House would be done by the Canadian Legislature, under the provisions of this Bill, just as much as if the Bill contemplated the doing it at once. Why had the Government, then, not had the manliness to do the thing at once? The noble Duke said he did not ask the House to pass the Bill which had been sent from Canada, but to pass a Bill which he had himself brought in. What was that Bill? Why a Bill to enable the Assembly of Canada to do the very thing which he himself declined to call upon their Lordships' House to undertake the responsibility of accomplishing. The noble Duke had in the course of his speech taunted his noble Friend (the Earl of Derby) with having begun life as a Li-

*The Duke of Newcastle*

beral and ending in becoming a Conservative. But the noble Duke might have remembered that he himself had also undergone political conversion, but with this disadvantage, that, beginning life as a Conservative, he had degenerated into a Liberal. The noble Duke had also taken great credit on the score that the measures for the emancipation of the colonies had proceeded step by step; but he would remind the noble Duke that hitherto the Government of this country had resisted the principle of an elective Upper Chamber. The present Government, however, were giving all the assistance in their power to the simple principle of election to the government of the country, without any interference on the part of the Crown whatever. They had only recently granted a constitution to New Zealand, and in that they had taken great care to have, as far as they could, two distinct effective Chambers—one being a Legislative Council, and the other an elective Assembly. That was by an Act passed in 1852; and they must, the moment this Bill passed, repeal that Act of Parliament, and give to New Zealand a new constitution, similar to that which would be the result of passing the measure now under consideration in respect to Canada. He was much surprised to hear the noble Duke quote the opinions of the late Earl of Durham in support of the principle of this Bill. He (Lord St. Leonards) contended that the feeling of the Earl of Durham was as clear as it could be expressed in language, that there ought to be a check on the elective Chamber. He (Lord St. Leonards) would ask, where was the check to be found in this case? Was it not the opinion of the world at large that a mere elective Assembly, without any check, was a democracy in every sense of the word, and in which it was almost impossible for any government to be carried on? Supposing the Council and the Assembly to agree together, and supposing their views were opposed to those of the Crown, then the Crown might dissolve the Assembly, but could not dissolve the Council, which would remain independent of it and do all the mischief it could. The Crown, however, would be compelled to dissolve the Council whenever that body ran adverse to the Assembly. If the two bodies agreed, the Council would be able to defy the Crown; if they disagreed, the Council would be absolutely powerless, and the whole power

would be centred in the Assembly. Let their Lordships mark what would be the effect of such legislation—the result would be that there would be a mere semblance of a colony in Canada. There was another point worthy of attention. When the Clergy Reserves Bill passed they had a Legislative Council; but they were now, by this Bill, taking away the only check that existed against aggression,—they were removing every obstacle, and leaving the clergy reserves to the entire control of the people at large, without any limitation whatever. The noble Duke, not satisfied with the proposition which had been sent to him from Canada, proposed to repeal those parts of the 3rd and 4th Victoria relating to the rights of the Crown in matters ecclesiastical, and of his motion removed all the checks that were possessed under the Act of Parliament by the Crown against any violent act of spoliation. Under all these circumstances, and for these reasons, he should see it his duty to vote with his noble Friend against the present measure.

THE EARL OF HARROWBY said, he entertained the strongest opinion that, if they wished to have a conservative measure, whether as regarded the connection between the Colony and the mother-country, or its own internal good government, it was absolutely essential that the Council should not be merely nominated by the Crown, but elected by the people. He regarded it, however, as a defect in the measure that, in coming to a conclusion on the most important of all questions that could be discussed in the Colony—namely, the form of its constitution—the decision was left entirely in the hands of the popular body itself, as now constituted. This was a question that affected not simply the monarchical feeling and monarchical character of the Government, but it was more than that; and further than that, it concerned the good government of Canada in all time to come, whether as monarchical or as democratic—whether as connected with this country, or unfortunately separated from it—that they should give them a wise and good system of government. He, therefore, thought that the Imperial Parliament ought to take this question into their own hands; and then, having deliberated upon what appeared to them to be best for the Colony—taking into account, at the same time, the wishes of the colonists—to pass such a measure as would, to the best of their judgment, secure the future good govern-

ment of the Colony. Having done so, let them leave to the body so constituted the absolute control of the future of the country. Surely, before they entrusted to them the important and irrevocable step of framing their own constitution, they ought to give them the best means of coming to a conclusion on the matter. But the Government's own act implied the conviction that the Legislative Council was not fitted to deal with this matter. There would be no inconvenience in that course. It was the course which was adopted with regard to the other colony, the Cape of Good Hope, which had already been referred to in the debate. These were the grounds on which he could not approve of the present Bill: at the same time, he wished to explain that he had no objection to an elective Council. He believed that a merely nominal body would never be in a position to exercise the important functions which were required of a second Chamber. They were said, indeed, to be nominated by the Crown, but, in point of fact, they were nominated by one Minister after another to serve the purposes of successive parties. They did not seriously represent either property, station, or character. They had no one element of strength except the parchment in right of which they took their seats; they had no hold upon the affections of the country. But an elective Council, rightly constituted, would undoubtedly give a conservative element to the Colony, and secure its future good government, whether it remained in connection with the mother-country, or declared its independence. But, for that reason, he thought the constitution of an elective Council ought not to be left to the Colony itself. It was upon these grounds that he must reluctantly vote for the postponement of the measure.

THE EARL OF DERBY, in reply, said, the noble Duke had referred to the measure which was introduced when he (the Earl of Derby) was in office for the government of the Cape, and observed that he then seemed to have no objection, such as he now urged, to an elective Council; but the noble Duke appeared not to recollect the proceedings that took place on that occasion. He must remind him that the noble Earl who was at the head of the Colonial Department took the unusual step of referring the Cape ordinances to the consideration of the Judicial Committee of the Privy Council, who recommended the substitution of an elective for a nominee Council; and that a draught Order in

Council was sent out to the Cape, founded on the decision of the Judicial Committee of the Privy Council, which decision had been adopted and sanctioned by the Government. At the time he the (Earl of Derby) succeeded to office, he found that the draught Order, to which he had just referred, had been laid before Parliament, and in the discussions which took place in that House, he stated that, though it was in the power of the Crown to withhold its consent to the colonial constitution, yet, that after having offered free institutions to the Colony, it was not in the power of the Crown to withdraw the concessions so made. Whatever might have been his private opinion as to the principle of an elective council, he would have thought it a breach of faith to withdraw a concession that had been made by the Crown on the advice of the preceding Government, and which was based on the decision of the Judicial Committee of the Privy Council. Then, as to the course which the Government subsequently took, he consulted with his right hon. Friend then at the head of the Colonial Office; and he concurred with him in the opinion that it was desirable, till a state of peace arrived, that no further steps should be taken to carry into effect the intentions of the Government. That state of peace did not occur during the time he was in office, and the matter was suspended during the whole period of the war. With regard to the Bill now before the House, he wished just to say that several of the clauses were not in accordance with the title of the Bill. He had stated his opinion as to the propriety of not proceeding with this measure. If the Government should, however, proceed with it, he (the Earl of Derby) should take no part in the responsibility of passing the measure, as he should consider that he had done his duty in moving the postponement of the Bill, and should not give the Government any further trouble as to its details.

On Question, that "now" stand part of the Motion, their Lordships *divided*:—  
Content 63; Not Content 39: Majority 24.

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Argyll	Aberdeen
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Wellington	Albemarle
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MARQUESSSES.	Ducie
Breadalbane	Ellesmere
Clanricarde	Fingall
Lansdowne	Granville

*The Earl of Derby*

Haddington	Byron
Harewood	Camroys
Ilchester	Cremorne
Portsmouth	Congleton
Somers	Dufferin
Spencer	Enfield
Suffolk	Foley
VISCOUNTS.	Godolphin
Canning	Hatherton
Falkland	Kinnaird
Sydney	Leigh
Torrington	Monteagle
BISHOPS.	Mostyn
Cork	Overstone
Down	Panmure
Llandaff	Petre
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Bradford	BARONS.
Cadogan	Bateman
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Desart	Downes
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Glengall	Dynevor
Hardwicke	Feversham
Harrowby	Plunkett
Lonsdale	Redesdale
Longford	Rayleigh
Mayo	St. Leonards
Malmesbury	

*Resolved* in the Affirmative: House in Committee accordingly: Bill *reported* without amendment; an Amendment made; and Bill to be read 3<sup>d</sup> *To-morrow*.

House adjourned till *To-morrow*.

#### HOUSE OF COMMONS,

*Thursday, June 29, 1854.*

MINUTES.] PUBLIC BILLS.—1<sup>o</sup> Usury Laws Repeal; Letters Patent for Inventions.  
2<sup>o</sup> Insurance on Lives (Abatement of Income Tax) Continuance; Linon, &c., Manufactures (Ireland); Turnpike Acts Continuance (Ireland).  
3<sup>o</sup> Dublin Carriage.

#### SOUTH SEA COMPANY BILL.

MR. BOUVERIE, in moving that the House agree with the Lords' Amendments, said, he would take that opportunity of ex-

plaining their effect. Hon. Members would recollect that when this Bill was read a second time in that House a discussion took place upon its provisions, which were intended to effect two objects. The first of these objects was the winding-up of certain of the affairs of the South Sea Company, a course rendered necessary by the financial operations of the Chancellor of the Exchequer. The other object was to enable the South Sea Company to take the management of trust estates. This latter he believed to have been a most important provision, but he was sorry to say that in another place it had been determined to amend the Bill by striking out all the clauses relating to this object, and to this Amendment he had now to move the House to consent. The South Sea Company assented to the Amendment, but they only did so because they were obliged to wind up their affairs within a specified time.

Mr. T. GREENE said, he should give his concurrence to the views expressed by the hon. Member for Kilmarnock, because he always regretted to see unnecessary restrictions placed upon any of our great incorporated bodies.

Mr. HENLEY said, he considered that the House of Lords had done quite right in making the amendments which they had, and he thought it would be very dangerous to intrust any such powers as those proposed by this Bill to public companies.

*Lords' Amendments agreed to.*

#### COMMON LAW PROCEDURE BILL.

Order for Committee read.

SIR ERSKINE PERRY said, he believed this was the proper moment to move the addition to the Bill of the Instruction of which he had given notice. He regarded this as the most important measure on the subject of law reform ever submitted to the House of Commons, and as embodying all the principles of reform contended for by law reformers during the past twenty or thirty years. Its first and leading feature was the fusion of law and equity. Now this and other principles of the Bill were of general application, as properly bearing upon the Supreme Courts of Law at Calcutta as at Westminster; in fact, proper to be applied to all similar courts throughout every part of Her Majesty's dominions. True it was that the courts of law in India possessed powers of self-reform considerably greater than those held by the same tribunals in

England; but then the delays and difficulties in the way of introducing improvements, arising out of the necessity of constantly requiring time for the sanction and approval of the supreme authorities, were so great as to nullify, in great measure, the advantages to be derived from such powers being vested in the Judges. He thought, then, that if they could hit upon a practical mode of arriving at the same result much quicker, it would be wise legislation to require its adoption; and he believed that by the addition of this simple Instruction to the Bill they would have attained that object. The Supreme Courts of India differed in no way either as regarded the character of the proceedings or nature of their jurisprudence from the Courts at Westminster; he could see no reason, therefore, why the same rules should not be applied in both cases. If these rules were good for Westminster, surely they would be equally good for Calcutta. The Supreme Courts were introduced into India by the authority of Parliament, and in opposition to the wishes of the Court of Directors; but, nevertheless, they had progressed satisfactorily, and obtained the approbation and good wishes of all the inhabitants of India who had come under their control. They had adopted all the improvements which had been introduced into the courts of this country in later years, and carried them into effect with perfect success, and if an opportunity existed of making those courts still more useful, that opportunity ought not to be neglected. And he would have the House to recollect that it was not alone the natives of India that were interested in the introduction of a system of cheap and quick justice into that country—a commercial community of some 2,000,000 of persons, representing what he might call the *élite* of India, and engaged in transactions to the extent of 40,000,000*l.* annually, were, if possible, much more concerned in the attainment of that object. And the hon. Gentleman the Member for Liverpool (Mr. Horsfall) well knew that that great commercial emporium was as much interested in the proper reform of the Supreme Courts of India as were the inhabitants of either Calcutta, Bombay, or Singapore. He hoped, then, that he should have the support of all anxious for the welfare of commerce, and, likewise, of those who wished well to the native population, whom it was scarcely in their reach to benefit in any other direc-

tion than that of giving them the cheap and efficient administration of justice. He trusted the right hon. Gentleman the President of the Board of Control would not oppose the proposition, but that, for the sake of justice in India, he would consent to allow the matter to be considered in Committee.

Mr. PHINN seconded the Motion.

Motion made, and Question proposed—

“That it be an Instruction to the Committee on the Bill, that they have power to extend the provisions thereof to Her Majesty's Superior Courts in India.”

SIR CHARLES WOOD said, he was happy to find that his hon. and learned Friend (Sir E. Perry) approved of the principle of the Bill, for his opinion was one worthy of much weight and consideration. He (Sir C. Wood) was fully sensible of the value of that opinion in reference to the desirability of extending its provisions to India, and although he felt it his duty to oppose the Motion, he did so, not so much because he disapproved of the object of the hon. and learned Gentleman, as that he objected to the mode in which it was proposed to carry that object into effect. In the very first place, although Parliamentary history afforded precedents for inserting in an Act upon one subject clauses relating to a totally different matter, yet he believed that such a course had never yet been taken with regard to India. All the changes and improvements in the law of that country had been kept in separate and distinct Acts of Parliament, and thus a special code existed relating to a special subject. The present Motion proposed to break in upon that uniformity for the first time, and thus the simple addition of an Instruction in an English Bill would introduce uncertainty and confusion into what had hitherto been plain and straightforward. Again, in the last Session of Parliament it had been a principle laid down and agreed to on all hands, that the internal arrangements of India should be left to India to legislate upon. But here it was proposed, directly in contravention of that principle, to extend a most complicated and minute measure of internal regulation to that country. If, however, it were possible to extend the principles of this Bill to India, without taking the course suggested by the hon. and learned Member, he (Sir C. Wood) would perhaps not be disinclined to overlook those objections. But in truth the very contrary was the fact, and it was perfectly possible to intro-

*Sir E. Perry*

duce into India all such of the principles of this Bill as were applicable to that empire, although the Motion of the hon. and learned Member might not be carried. It was with a view to such a fit amelioration of the law that the Commission, to which the hon. and learned Gentleman referred, had been appointed. The hon. and learned Member found fault, it was true, with legal Commissions, but he should remember that this very measure, of which he approved, issued from such a body. He therefore objected to the proposed course of proceeding because he thought it wrong in principle to introduce, by a single clause, a new code of laws into India. India ought to be legislated for in India, and in his opinion they would stultify themselves by taking the matter out of the hands of the Commission.

Mr. COLLIER said, he hoped his hon. and learned Friend would withdraw his Amendment. Without entering into the question whether or not the laws of England should be applied to India, he thought that if that was to be done at all, it should be by means of a separate measure. He trusted the measure would not be endangered by the Amendment being persevered with, for he ventured to say it was one of the most important measures that had been introduced for centuries, and in his opinion it was the most important measure of the present Session.

Mr. NAPIER said, he had intended to move the extension of this Bill to Ireland, but he had refrained from doing so from a fear of retarding its progress. He therefore pressed on the hon. and learned Gentleman to follow the same course and withdraw his Motion.

Mr. V. SCULLY said, he would take the opportunity of stating, that he regarded it as very prejudicial to the public interests to have separate legislation for different portions of the empire in reference to such matters. Indeed, he must confess, paradoxical as it might appear, that on the whole, he infinitely preferred to see Ireland sharing bad legislation with England than that she should occasionally enjoy all the advantages of good measures, when the sister country was not so well dealt with; and for this reason—it was very certain that when anything was wrong in England a remedy was sure to be found, sooner or later; not so, however, with Ireland—there things might be very badly ordered indeed, without provoking the slightest attempt at amelioration. As an instance of the

strange working of the present system, he might point out the fact that while he found on the notice paper mention of no less than twenty-five measures, all more or less of a reformatory character, only nine of them were applicable to Ireland; while, in twenty out of the twenty-five cases, legislation might be most usefully extended to her.

THE ATTORNEY GENERAL said, he wished to state, in reply to what had just fallen from his hon. and learned Friend, that the Bill was only not made applicable to Ireland from an assurance which he received from several members of the Irish bar, that there were differences in the practice of the courts of the two countries which might interfere with such an object. Had it not been for this reason, he should have been anxious to extend the measure to Ireland.

SIR ERSKINE PERRY said, he would consent to withdraw the Motion, though with regret.

Motion, by leave, *withdrawn*.

House in Committee.

Clause 1 *agreed to*.

Clause 2 (Two Judges may sit at the same time for causes pending in the same Court).

MR. PHINN said, he would take that opportunity of calling the attention of the First Commissioner of Works to the state of the law courts. Nothing could be more filthy or horrible than the Bail Court, or the little Exchequer Chamber. The stifling heat and scanty accommodation in most of the courts made it almost impossible to transact public business in them. The Judges had complained over and over again of this state of things, and he thought it was high time some better accommodation was provided.

Clause *agreed to*.

Clauses 3 to 13 *postponed*.

Clause 14 (Raises the qualification of jurors to 30l.).

MR. HENLEY said, he would suggest that it would be better to postpone this clause until some information was obtained as to the number of jurors who would be available. At present he was inclined to think that to raise the qualification of jurors, and, consequently, to limit their numbers, would, in many counties, lead to very great difficulties.

THE ATTORNEY GENERAL said, this clause was the result of a very general feeling among all persons acquainted

with the course of things at assizes, that while in the large towns a class of jurors was easily obtained of considerable intelligence, in the agricultural counties there was considerable difficulty in getting jurors whose education and intelligence were of sufficiently high standard to fit them for the discharge of their very important functions.

MR. HENLEY said, he felt certain that the adoption of this clause, as the Bill at present stood, would lead to considerable difficulty and confusion. As the provisions of this clause were not to extend to the jurors summoned for Crown trials, the sheriff would henceforth have to make up three separate lists of jurors without having any means afforded to him from the document from which he at present made out the lists of knowing what was the particular qualification of each juror. He thought some machinery ought to be introduced into the Bill by which the sheriff would be able to obtain this information.

MR. PHINN said, it was admitted on all hands that it was desirable to raise the qualification of jurors. For his part, he thought that a mixture of jurors of different classes would be exceedingly valuable.

MR. NAPIER said, he would suggest that these provisions relating to jurors should be embodied in a separate Bill.

MR. STUART WORTLEY said, he was of opinion that it would be of great advantage if jurors of a higher class of intelligence were brought to bear upon criminal trials.

THE ATTORNEY GENERAL said, he quite agreed with the right hon. and learned Gentleman that it would be exceedingly advantageous to employ, to a certain extent, a higher class of jurors in criminal cases. He would propose to omit these clauses relating to jurors, promising at the same time that a separate Bill should be introduced relating to this part of the law.

MR. HENLEY said, he wished to suggest that in any Bill on this subject regard should be had to the feelings of the great mass of the people, who came within the scope of the criminal law. At present the theory was, that a man should be tried by his peers, and he should be very unwilling to consent to any alteration which would lead to the poorer classes being tried by persons removed from their own condition in life.

MR. STUART WORTLEY said, he

must beg to explain that his desire was not that criminal juries should be composed entirely of the higher classes of jurymen, but that there should be a certain mixture: for instance, that country gentlemen, eligible to serve on the grand jury, but not actually engaged in serving, should sit along with their poorer neighbours on common juries. He wished to ask the hon. and learned Attorney General whether there was any prospect of a measure being introduced this Session with regard to the grand juries of the City of London. At present, twelve times a year, there were forty-eight gentlemen summoned, to whom an exemption for three years from serving on common juries was then given, and the effect of this practice was, that the intelligence of the jury list was exhausted, and the juries in the City became little better than those in the agricultural districts.

THE ATTORNEY GENERAL said, he was not prepared to introduce any Bill on the subject referred to by the right hon. and learned Gentleman during the present Session. The subject was under consideration in connection with the important question of a public prosecutor, with regard to which he might say—as he was not present when a question referring to it was asked by the hon. and learned Member for Leominster (Mr. J. G. Phillimore) the other day—that he had given to it his most serious and anxious consideration, but he had found it so surrounded with difficulties that he had not been able to draw up such a measure as he should feel justified in submitting to Parliament. If we were remodelling our whole judicial system, the matter would not be so difficult; but to adapt such a new institution to our existing institutions, with a due regard to existing interests, was one of the gravest problems which the Legislature could be called on to solve. So difficult, indeed, was it, that the present Lord Chief Justice (Lord Campbell) had stated that, the matter being brought under his consideration when he was Attorney General, he had reflected upon it, but he had not been able to satisfy himself as to any scheme for carrying out the desired object. He (the Attorney General) was still seeking about for information on the subject, and he hoped by next Session to have some scheme matured which he might think worthy of being submitted to the attention of Parliament. Without some such insti-

*Mr. S. Wortley*

tution as this it would be impossible to carry out the object referred to by the right hon. Gentleman—the abolition of the grand jury system.

MR. STUART WORTLEY said, his anxiety was not for the abolition of the grand jury system so much as to see it modified, and the number of attendances retrenched. Four times a year, he thought, would be sufficiently frequent attendance.

MR. V. SCULLY hoped, that if a separate Bill were to be introduced, regulating the grand jury system of England, its provisions would be extended to Ireland also.

Clause *withdrawn*, as were also Clauses 15 and 16.

Clause 17. (Jury to be discharged after twelve hours, if they cannot agree.)

THE ATTORNEY GENERAL said, he wished to explain that the clause now before the Committee proposed to get rid, in all civil causes, of the present anomalous practice of shutting up juries without refreshment, for in future all necessary refreshments and accommodation were to be provided by leave of the Judge. It also proposed that juries should be discharged after twelve hours if they did not agree; and, lastly, that if only ten of the jurors were unanimous, their verdict should be of equal force as if found unanimously by the whole jury.

MR. HENLEY said, he strongly suspected that if the refreshments were to be found by the public a great deal of the time of juries would be taken up in their discussion rather than in that of the issue which they had to try.

THE ATTORNEY GENERAL said, he must explain that refreshments could only be had at the discretion of the Judge; and, as jurors were servants of the public, he thought it only just that the public should bear the expense of providing what was necessary for them.

MR. STUART WORTLEY said, he wished to know what was the opinion of the Common Law Commission with regard to extending this provision as to taking the verdict of ten jurymen out of the twelve to criminal cases. It must be remembered that criminal offences were not unfrequently brought into issue in civil causes—such, for instance, as perjury, fraud, conspiracy, and even arson in assurance cases; nay, he had known an assurance case in which the verdict of the jury involved the

crime of murder; and there would then be this anomalous state of things, that on the civil side of the court a man might be found guilty on the verdict of ten jurymen, while on the criminal side the unanimous verdict of twelve jurymen would be required.

THE ATTORNEY GENERAL said, he would readily admit that the clause was not in accordance with the views of the last Commission, who were unanimously agreed in favour of retaining the present system of unanimity in the jury. The provision was adopted by the House of Lords in conformity with the views of the Commission of 1831, who were of opinion that if nine of a jury were unanimous their verdict ought to be taken. The late Commissioners, however, held that such a practice must necessarily lead to general litigation, inasmuch as persons would be much more induced to sue for a new trial in case of any number of the jury having pronounced in their favour. He confessed his own views were most strongly in favour of the latter conclusion; and, therefore, were against the clause as it stood. Still, as the question had been much considered in the other House, he should be loth to disturb the settlement come to.

MR. I. BUTT said, he had intended to have divided the Committee on the clause. He had no hesitation in affirming that to dispense with unanimity on the part of juries would be altogether to overturn the institution of trial by jury. He thought that a provision so important as that ought, at all events, to be made the subject of a separate enactment; and that in so thin a House as that was, sitting to discuss a Common Law Procedure Bill, its discussion ought not to be proceeded with. He objected to so great a change in trial by jury, which was interwoven with all the institutions of the country. However, he agreed in the wisdom of removing all coercion upon juries.

MR. MASSEY said, he approved of the clause, holding it to be against human nature to secure in all cases the unanimity of twelve persons.

MR. NAPIER said, he entertained a strong opinion in favour of the necessity of unanimity in the jury. He believed, if the proposed change were extended to criminal cases, it would be found impossible to carry out capital sentences where the verdict of "Guilty" had only been given by ten jurymen.

MR. COLLIER said, that under the

present system the unanimity of juries was only apparent, but if the former part of this clause, which abolished coercion, were adopted without the latter, there would no longer be any unanimity, either real or apparent. The consequence would be, that juries would be continually separating without coming to a verdict, and parties would be put to the expense of new trials.

MR. H. S. KEATING said, he objected to the clause as it stood, on account of the anomalous state of things which would result from it. As the right hon. and learned Gentleman the Recorder of London had pointed out, a man might be found guilty of an offence by ten jurymen on one side of the court, while, on the other side, the verdict of the twelve would be required. He hoped that noble Lords in another place would not be so unreasonable as to insist upon this clause.

THE ATTORNEY GENERAL said, he did not for a single moment suppose that the Bill would be rejected in another place, if this clause were struck out. His own opinion being in favour of requiring unanimity, he should certainly support the omission of the latter part of the clause.

MR. G. BUTT said, he was strongly of opinion that the clause ought not to stand in its present shape. It was impossible, if it were introduced into civil practice, that it should not be extended to criminal cases, and he did not think that in these cases the system of taking the verdict of ten jurymen out of twelve would give satisfaction.

MR. ELLIOT said, he wished to point out to the Committee, that the system proposed to be introduced into the English law had long been in practice in Scotland, and had been found to give universal satisfaction there.

THE ATTORNEY GENERAL: But we have not here the intermediate verdict of "Not proven."

MR. CRAUFURD said, he was decidedly for maintaining the clause as it stood. The plea as to the desirableness of securing unanimity on the part of a jury he regarded as an absurdity.

MR. WORTLEY said, that the objection entertained by the people of Scotland was to trying civil cases by juries at all. They were formerly tried by judges alone, and the new system had never become popular, though he believed that one of the chief elements of its unpopularity was the anomaly which it created between the civil

and criminal practice with regard to this very point of taking the verdicts of juries.

MR. ATHERTON said, he regarded the clause as the most beneficial feature in the whole Bill. Let them adopt it, and they would no longer have to witness the spectacle of jurors being starved into unanimity by the dogged obstinacy of stout men in top-boots, whose mastication was as tough as the leather from which their boots were made.

MR. HENLEY said, he could not come to the conclusion that the ends of justice would be furthered by the adoption of the clause.

SIR CHARLES BURRELL said, it was his decided opinion, if the clause were adopted, that the verdict of a jury would no longer be worthy of the same respect in the public mind.

Motion made, and Question put, "That the Clause, as amended, stand part of the Bill."

The Committee *divided*:—Ayes 80; Noes 75: Majority 5.

Clause *agreed to*, as were also the 18th, 19th, and 20th clauses.

Clause 21.

MR. APSLEY PELLATT said, he objected to the Judge who presided being the party to decide as to whether a person should be sworn or not; he thought that this decision ought to be left to a man's own conscience. He should move also, as to this clause, that the word "religious" be omitted, and the word "conscientious" inserted.

MR. DIGBY SEYMOUR said, he was inclined to agree with the hon. Member for Southwark, for he considered that no man ought to be allowed to sit in judgment on another man's conscience.

MR. HENLEY said, he thought the clause would act well as it stood; if, however, the Amendment of the hon. Member for Southwark were pressed, the best form of raising the question would be to move to omit the word "conscientious" and insert the word "religious."

MR. STUART WORTLEY said, hon. Members appeared to be splitting straws about expressions, and he could not understand what conscientious scruples could exist except such as were founded on religious feeling.

THE ATTORNEY GENERAL said, that this clause of the Bill had been most carefully considered, and by intermeddling with the wording of it, which had been adopted with every desire not to wound the

feelings of any parties, the Committee would destroy the effect of the whole measure.

Amendments *withdrawn*; Clause *agreed to*, as were also the clauses up to Clause 28.

Clause 29.

MR. PHINN said, he wished to call attention to the system of stamps upon bills of exchange and promissory notes, which he considered required considerable amendment, particularly as to their being refused as evidence under certain circumstances in courts of law, such as, for instance, a bill being drawn for a larger amount than the stamp would carry. This might be altered, he suggested, by imposing a fine in such cases, and, upon payment of the fine, allowing the bill to be received as evidence.

THE ATTORNEY GENERAL said, that that subject was rather a question for the Chancellor of the Exchequer than himself, and he feared the hon. Member would find that there were a good many fiscal difficulties in the way. He would, however, consider the subject.

Clause *agreed to*, as were also the clauses up to 34 inclusive.

Clause 35 (relating to appeals).

MR. ATHERTON said, he should move the omission of the clause. In this clause the appeal was given to the party decided against as a matter of right, while by Clause 36 it was given on certain conditions. Owing to these circumstances he believed the 35th clause would be inoperative.

THE ATTORNEY GENERAL hoped his hon. and learned Friend would not persevere with his Motion. He was sure that the omission of this clause would not meet with the approbation of the judicial authorities in another place, and would imperil the measure.

MR. ATHERTON said, he was so anxious for the adoption of this valuable measure that he would not press his Motion.

Clause *agreed to*, as was also the following clause.

The House resumed. Committee report progress.

#### THE WAR WITH RUSSIA— OCCUPATION OF THE PRINCIPALITIES BY AUSTRIA—QUESTION.

LORD DUDLEY STUART said, he was desirous of putting a question to the noble Lord the President of the Council of which he had not given notice. If, however, notice were required, he would defer the question till another day. He wished to know whether any treaty or convention

had been signed between Austria and the Porte with regard to the occupation of the Principalities by Austrian troops? Whether, in case such a convention had been entered into, the treaty had been communicated to Her Majesty's Government; and, if so, whether there would be any objection to lay it upon the table? He also wished to ask whether the intelligence, which had been very freely circulated, that the Emperor of Russia had accepted the *ultimatum* of Austria, had been confirmed, and whether the retirement of the Russian troops from the Danube, with a view to the evacuation of the Principalities, was, according to information received by the Government, in consequence of an understanding come to between Austria and Russia?

LORD JOHN RUSSELL: In answer, Sir, to the first question of my noble Friend, I have to say that Her Majesty's Government have received information that a convention has been signed between Austria and the Sublime Porte for the occupation of the Danubian Principalities by Austrian troops in any case, either whether the Russian troops shall have quitted the Principalities, or whether they shall seek to remain there—that is to say, if the Russians have voluntarily left the Principalities, the Austrian troops will occupy them; and if the Russians should refuse to quit the Principalities, the Austrian troops will enter those Principalities for the purpose of driving them out. That is the effect of the treaty; but we have not at present an official copy of the convention which has been signed, and therefore I cannot promise yet to lay it upon the table of this House. With regard to my noble Friend's second question, which relates to any intelligence that has been received by Her Majesty's Government with respect to the Emperor of Russia having consented to the *ultimatum* of Austria, I have to state that no official information of that nature has been received by the Government. The last time that I saw the Austrian Minister he informed me that no answer had yet been received at Vienna; and I suppose, unless subsequent information has arrived, that no answer has yet been received.

SIR HENRY WILLOUGHBY: Sir, I wish to ask the noble Lord if this country is any party to the convention, which he states has been concluded between Austria and the Porte?

LORD JOHN RUSSELL: It is a con-

vention between Austria and the Porte, and this country is not a party to it.

MR. LAYARD said, he would beg to ask the noble Lord if he would lay on the table of that House a despatch on the subject of the Treaty of Adrianople, which had been laid on the table of the House of Lords?

LORD JOHN RUSSELL: If my hon. Friend or any other hon. Member will move for the production of the despatch, there will be no objection to produce it.

MR. LAYARD said, in that case he gave notice that he would move that it be laid on the table.

Subject dropped.

#### THE NEWSPAPER STAMP—QUESTION.

MR. LUCAS said, he begged to ask the Chancellor of the Exchequer whether the Government had arrived at any decision in reference to the newspaper stamp question with the view of carrying out the declared opinion of that House?

THE CHANCELLOR OF THE EXCHEQUER said, as he understood the question put by the hon. Gentleman, it was, whether the Government at the present time intended to bring in any Bill to give effect to the Resolution which was come to by that House upon the Motion of the right hon. Gentleman the Member for Manchester (Mr. Milner Gibson). The Government were not prepared to bring in such a Bill; and it would perhaps save the hon. Gentleman some trouble if he (the Chancellor of the Exchequer) now stated that, when they were prepared to do so, the Government would take care to give due notice of their intentions.

MR. MILNER GIBSON said, the Chancellor of the Exchequer had just given an answer to a question from an hon. Gentleman opposite (Mr. Lucas) which he could not understand, and which did not correspond with the reply given to a similar question on a former day. If he correctly understood the right hon. Gentleman, he stated that the question of the newspaper stamp was not under the consideration of the Government with a view to legislation, and that the Government had decided to set at nought the Resolution of that House. ["No, no!"] He certainly understood the answer of the right hon. Gentleman to be, that the question was not under consideration, and that when it was he would give notice to the House. Now, what the right hon. Gentleman stated upon a former occasion was, not only that the question

was under consideration, but that it was under special consideration. It was only because he had been led to believe that the Government would undertake the matter that he had been induced not to proceed with it. He wished to ask the right hon. Gentleman if the House were to understand from the answer just given that Government had no intention of legislating upon the subject.

THE CHANCELLOR OF THE EXCHEQUER said, he was quite sure from what the right hon. Gentleman had just stated, that he had not heard the answer given to the question of the hon. Member for Meath, or he could not by any possibility have placed the construction upon it which he had done. He (the Chancellor of the Exchequer) had not retracted or qualified one syllable of what he said on a former occasion. What he then stated was, that the Government had requested the Attorney General to take the matter into consideration, with a view to ascertain the state of the law. He was asked to-day if the Government had come to any decision upon the subject, and, in answer, he stated that they had not, and that when they did due notice would be given to the House.

#### OXFORD UNIVERSITY BILL.

Further Proceeding on Third Reading resumed.

MR. HEYWOOD said, in rising to move the introduction of the clause of which he had given notice, he thought that it was very well adapted to the Bill they had before them, which appointed a certain number of Commissioners, who were to act for four years; and the time which it took to obtain a degree at Oxford, as he proposed by his Resolution to enable Dissenters to do, would be nearly coincident with the term of the Commissioners' powers. After the expiration of the four years, if Parliament thought proper, the question could be again dealt with if necessary. The object of the clause was to render the University a national institution, and he thought such a proceeding would have a tendency to create a kindly feeling between the different religious denominations of the country. However necessary it was for parties entering the Church to subscribe to religious tests, he could not see that it was either just or requisite to compel the laity to subscribe to them.

MR. EVELYN DENISON said, he begged to second the Motion of the hon.

*Mr. M. Gibson*

Gentleman, with whom he felt it an honour to be associated in prosecuting the object he had in view. He hoped the House would consider the position in which the question was now placed by what had already occurred. The House had granted to the Dissenters the same advantage as they enjoyed at Cambridge, namely, admission without the oath; and by this Bill they had also sanctioned private halls. The clause of the hon. Member was, therefore, only the natural and necessary corollary which would give completeness to the measure. Civil disabilities on account of religious distinctions were inconsistent with the spirit of the nineteenth century; and he rejoiced that the House had decided upon placing the stamp of that spirit upon this Bill by a majority of ninety-one on a former night. The singular moderation of his hon. Friend's proposition was its best claim to the favour of the House. If, however, it should be opposed, he hoped that it would be supported by such a majority as would not only secure its passage through that House, but would see it safely to its journey's end.

Clause (From and after the first day of Michaelmas Term, one thousand eight hundred and fifty-four, it shall not be necessary for any person, upon taking the degree of Bachelor in Arts, Law, Medicine, or Music, in the University of Oxford, to make or subscribe any declaration, or take any oath, save the oath of allegiance, or an equivalent declaration of allegiance, any law or Statute to the contrary notwithstanding)—*brought, up, and read the first time.*

MR. HENLEY said, he could not agree to the proposition of the hon. Member for North Lancashire (Mr. Heywood). The hon. Gentleman who spoke last said, that this was a very moderate proposal; but he had forgotten that the hon. Member who brought forward the clause had indicated now for the first time, that the period for taking bachelors' degrees being for four years, the Commission would come to an end at that period; and that the question could then be reconsidered. ["Hear, hear!"] It was quite plain by the cheers that there was no mistake upon this point. Therefore, when his hon. Friend (Mr. E. Denison) called this a moderate proposal, he would remind him that the candid and manly statement of the hon. Member for North Lancashire placed the question in anything but a moderate light; for it was evident that it was the ultimate intention of the

supporters of this clause to go the whole length of the original proposition. The University of Oxford had been lulled to sleep on this question of the admission of Dissenters by the assurances of the Government at the commencement of the discussion that no proposition of the kind would be included in this Bill. No member of the University had the least reason to suppose that any matter of this sort would be considered in relation to this Bill. The University was now taken entirely by surprise. It was true every Member of the Government spoke strongly last week in favour of this measure, but they voted against it. The whole power they brought to bear against it was about forty Members. He did not think that that showed a very great stir upon the part of the Government to oppose the measure on that occasion. They were told that, all religious disabilities having been removed, the University should be as open as any other place. But what did that involve? The University being a place of national education, must therefore cease altogether, as a University, to be a place of religious education. He should like to know how the examination upon the truths of Christianity, and the distinctive teaching of the Church, was to be continued under such circumstances. In the separate colleges they might teach what they pleased, but, so far as the University was concerned, unless she set herself against the State, and by her Statutes and regulations made the present measure of no effect; if she acted in accordance with the proposed law and framed her examination so as to enable all persons to be included within them, she would cease to be a religious institution altogether. The principle involved was by no means a trifling one, but, if he saw the way clear to the University of Oxford remaining a teacher of religion consistently with such a clause as this, he should not oppose it. As yet, however, no one had attempted to point out how that was to be effected. For his own part he believed it to be an impossibility, and, believing it to be an impossibility, though he got but a single person to follow him into the lobby, he would divide the House upon it. The question was one of the greatest consequence. The majority of persons who now sent their children to Oxford, did so because they knew they would be trained up in the principles of religion, and he did not think that, for the sake of a minority who might go there, they had any right to knock up

the existing system, and that they would knock it up by the clause under consideration to him was quite apparent. It had been stated in the course of the discussion on this Bill, that one-half of the population consisted of Dissenters from the Established Church. He (Mr. Henley) doubted the accuracy of that assertion. Hon. Members, no doubt, founded their statement upon the fact that half the people who attended divine service on a given day were not members of the Church of England. But the hon. Member for North Lancashire must know as well as he (Mr. Henley) that a very large portion of the population went nowhere, and it was the duty of an Established Church to look after those who did not look after themselves. An established Church was always, in a certain sense, a missionary Church among that large portion of the people who, unfortunately, paid no attention to their religious duties at all. It was a violent assumption to say, therefore, that half the community did not belong to the Established Church. His objection to the clause, then, was that it would occasion the University, as contradistinguished from the colleges and halls, to cease to be a place for religious instruction; and believing that it would produce great mischief, and destroy that which was the most useful part of the University system, he begged to move that the clause be read a second time that day six months.

MR. NEWDEGATE, in seconding the Amendment, said, the hon. Member for North Lancashire had truly stated that his object was to get rid of the religious education of the laity of the Church of England, and he proposed to do this by abolishing the requirement that they should sign the Articles of the Church or be examined upon them. The intention of the clause was not merely that the Dissenters should not be required to subscribe the Articles of the Church of England, but that the laity of the Church of England should not be required to understand, subscribe, or agree to them. The hon. Member had observed, historically and correctly, that subscription to these Articles had become a regulation of the University during the reign of Queen Elizabeth. That was one of the fruits of the Reformation, and it marked the period when the University was by this regulation brought into accordance with the Church of England, as then reformed, and became truly Protestant. He begged the House, there-

fore, to remember that it was a Protestant test which had hitherto been required from the members of the University of Oxford that they were now called upon to abolish. The recent history of the University did not prove that it ought to be the object of sincere members of the Church, or indeed of sincere Protestants of any denomination, to remove Protestant tests or teaching from that institution. And this he thought was a good reason why the House should not permit subscription to and examination in the Thirty-nine Articles to be abolished. It had been objected, in the first place, that members of the University at matriculation should be required to sign those Articles. It was now proposed that they should no longer be examined in the substance of the Articles on taking their degrees, or be called upon to sign them at that or any subsequent period. Now, as a sincerely attached member of the University of Oxford, and having viewed with much pain the dangers to which she had been exposed by the Tractarian movement, he deprecated this object most heartily and with serious apprehension, because he saw that the House, in its anxiety to provide for the admission of Protestant Dissenters to the University, without considering both sides of the question, was about to remove the Protestant safeguards of the University, and that at the very period when it was known such safeguards were doubly requisite. He was glad the proposition had been stripped of the pretence that examination in the Articles was any longer to be required of members of the Church of England, from which their competitors in other branches of learning were to be exempt, and that the proposer of the clause clearly indicated that he expected the Commissioners would compel the University to abandon the examination of any of her members for bachelors' degrees in the doctrines of the Church of England if this clause were adopted. He was glad it had been declared that it was the intention of the clause that the lay members of the Church of England should no longer be educated or examined, so far as the University regulations had force, in the doctrines of religion—the doctrines of the Church of England. It at once, he repeated, stripped the proposition of the pretence of being consistent with the continuance of the University as a great educational institution in connection with the Church. The measure was, in fact, the commence-

*Mr. Newdegate*

ment—and only the commencement—of a plan which was designed to sever the connection at present subsisting between the University and the Church; for the hon. Member (Mr. Heywood) had clearly indicated that this was but an instalment of his whole object, which whole object was to place Dissenters and Roman Catholics, equally with members of the Church of England, in the government of the University, by admitting them to the degree of masters of arts, and, as far as it could be accomplished, to reduce the system of the University of Oxford to the system which prevailed in the University of London, wherein there was no religion taught, no religion acknowledged, and no distinctive connection maintained with any Church.

THE CHANCELLOR OF THE EXCHEQUER said, one observation had dropped from the hon. Member for Oxfordshire (Mr. Henley), and also from the hon. Member for North Warwickshire (Mr. Newdegate), which required a moment's notice. Now, it was the intention of his noble Friend (Lord John Russell) and the Government to support the clause of the hon. Member for North Lancashire (Mr. Heywood), and he, for his own part, should deliberately join in giving that vote, in the full conviction that, as matters now stood, and after the unmistakable expression of the will of the House, he was doing that which was best for the interest of the University of Oxford itself. The wishes and intentions of the hon. Member for North Lancashire were no doubt entitled to be heard with all respect, but he would venture to observe to the right hon. Gentleman (Mr. Henley) that this clause could not in any authoritative way fix the House of Commons to those views. The right hon. Gentleman said that after the House had passed this clause, it would be impossible for the education of the University to continue a religious education. He (the Chancellor of the Exchequer) was bound to say that, if that were true, nothing would induce him to vote for the clause. But he found nothing in the clause to prevent the University from doing that which the right hon. Gentleman said it would not be able to do—namely, to administer, as she had heretofore done, a religious education to the children of the Church of England. No doubt it would be necessary for the University, in order to give full effect to the decision of Parliament—if Parliament

adopted the decision—to adapt her own rules and regulations to the purposes of Parliament with regard to the admission and training of persons of other religious persuasions. It would be the duty of the University to address herself cheerfully and carefully to the performance of that task, and he had no doubt that to the duty she would so address herself. But as to religious education, he ventured the confident opinion that it would continue to be given there as heretofore, and that the construction which the right hon. and hon. Gentlemen opposite had put on the clause—with respect to its effects, and the character of the education given at Oxford, and generally of the undergraduates—was a construction which was not justified by the clause itself. He might add that it was a construction which the right hon. Gentleman (Mr. Henley) would be glad to find would not be justified by the results.

MR. SERJEANT SHEE said, he was of founder's kin to one of the Oxford colleges, and yet he was to be excluded from any governing power in the University. So far so good, and he had no objection to that. The Universities had become great national institutions in connection with the Church of England, and he for one did not demur to being excluded from all governing power in those of Oxford and Cambridge. He differed, however, from what had fallen from an hon. Friend of his the other day, as to its being a matter of indifference to those who professed the ancient faith of the land whether they were excluded by religious tests or not. He might agree with him in thinking that there was no advantage to be obtained at either University which might not be too dearly purchased by the sacrifice of the faith they professed, but he did not concur in the opinion that there was danger of young men who went to the Universities losing their faith by contact with the members of the Established Church, or of having their religious principles in any way weakened by availing themselves of a University education. He should vote with great satisfaction for the proposition of the hon. Gentleman (Mr. Heywood), but, while he did not complain of the restriction in question, he must say he wished that the principle should be extended to the Irish Universities, and that, as they had excluded from the governing power of the national Universities in England persons who did not profess the religion of the Church of England, so they would also exclude from the government of

the Irish Universities those who did not profess the national faith of that country—taking care that the governing body should alter their rules and Statutes in such a manner that persons of a different religion might have the opportunity of obtaining an University education in their colleges. He also wished seriously to submit to hon. Gentlemen, members of the Church of England, whether it was right that an oath should be imposed at all on anybody in the University? He understood that at present, on taking a degree at Oxford, young men were required to call God to witness that—

“No foreign prince, prelate, or potentate hath or ought to have jurisdiction, power, pre-eminence, or authority, either ecclesiastical or spiritual, in Her Majesty's realms, dominions, or country.”

He would ask whether hon. Members thought that was an oath which ought to be taken either at Oxford or elsewhere. Ought not the existence of the fact that such authority was notoriously obeyed in this country to be sufficient to prevent it from being taken? From the time of the Reformation down to the reign of George III., such an oath might properly have been taken; but if he could show that by an Act of Parliament spiritual obedience to a foreign potentate had been made legal, and that successive Acts of Parliaments had recognised that legality, and the status of individuals created by such authority, he submitted that no conscientious man, aware of such facts, could or ought to take such an oath. It was fitting, when they were dealing with the oaths which certain parties should be required to take, that their attention should be called to their own Acts passed within the last fifty years, and which were wholly inconsistent with the plain meaning of the oath in question. Since the passing of the Acts of the 13 & 14 Geo. III. c. 35, and the 21 & 22 Geo. III. c. 24 (Irish), by which “Popish bishops” and all the rites and ceremonies of the Catholic religion, including, of course, the conferring of holy orders by “Popish bishops,” were legalised, and of the 18 & 31 Geo. III. (English), to the same effect, priests in holy orders of the Church of Rome had been so far recognised by the laws that, though British subjects, they could not sit in that House or serve on a jury; and how could persons swear that the foreign prelate under whose authority such priests were inducted had no ecclesiastical jurisdiction in this realm? It could not be

denied that the Romish priests were inducted by bishops who derived authority from the See of Rome, and which bishops had stated to the House the manner of their appointment and the nature of the Bulls under which they were appointed. Only a few years ago a Commission, authorised by the Act of 7 & 8 Vict., had issued relative to pastoral superintendence in Ireland, to which archbishops and bishops of the Romish Church were nominated, and Protestant archbishops and bishops of the United Kingdom had the liberality to become members of that Commission, and actually trustees of charitable donations and bequests in favour of archbishops and bishops, and their successors, appointed by Papal Bulls to pastoral superintendence in the realm. He hoped, after the statement he had now made, somebody would quiet his conscience on this point, by stating something which would justify this Protestant Legislature in imposing oaths on the youth of the country that were inconsistent with the obedience recognised by their Acts of Parliament of a certain class to foreign spiritual jurisdiction; and that the governing bodies in the University—that of All Souls, for instance, from which he was excluded because the Statutes of the founder had been violated—would have the goodness to take the matter into their consideration, and ascertain whether such an oath could consistently be taken.

Motion made, and Question put, "That the said Clause be now read a Second Time."

The House divided:—Ayes 233; Noes 79: Majority 154.

#### List of the AYES.

Acland, Sir T. D.	Butt, I.
Adair, H. E.	Byng, hon. G. H. C.
Aglionby, H. A.	Cardwell, rt. hon. E.
Anderson, Sir J.	Castlerosse, Visct.
Annesley, Earl of	Cavendish, hon. C. C.
Baines, rt. hon. M. T.	Cayley, E. S.
Ball, J.	Cheetham, J.
Bell, J.	Clay, Sir W.
Berkeley, Adm.	Cobden, R.
Berkeley, hon. O. F.	Cockburn, Sir A. J. E.
Berkeley, C. L. G.	Coffin, W.
Bethell, Sir R.	Conolly, T.
Biggs, W.	Corbally, M. E.
Blackett, J. F. B.	Cowper, hon. W. F.
Blair, Col.	Craufurd, E. H. J.
Bland, L. H.	Crook, J.
Bonham-Carter, J.	Crossley, F.
Bouverie, hon. E. P.	Davie, Sir H. R. F.
Bramston, T. W.	Davies, D. A. S.
Bright, J.	Dent, J. D.
Brocklehurst, J.	Dering, Sir E.
Butler, C. S.	Drumlanrig, Visct.

*Mr. Serjeant Shee*

Drummond, H.	Labouchere, rt. hon. H.
Duncan, G.	Langston, J. H.
Duncombe, T.	Langton, H. G.
Dundas, F.	Laslett, W.
Dunlop, A. M.	Lemon, Sir C.
Dunne, Col.	Lennox, Lord H. G.
Du Pre, C. G.	Liddell, H. G.
Elcho, Lord	Lindsay, W. S.
Ellice, rt. hon. E.	Littleton, hon. E. R.
Ellice, E.	Lowe, R.
Esmonde, J.	Lucas, F.
Ewart, W.	Macaulay, rt. hon. T. B.
Fagan, W.	Mackie, J.
Feilden, M. J.	M'Cann, J.
Ferguson, Col.	M'Taggart, Sir J.
Ferguson, Sir R.	Mangles, R. D.
Fitzgerald, W. R. S.	Marjoribanks, D. C.
Fitzroy, hon. H.	Massey, W. N.
Forster, C.	Miall, E.
Forster, J.	Milligan, R.
Fortescue, C. S.	Mills, T.
Fox, R. M.	Milnes, R. M.
Fox, W. J.	Michell, W.
Freestun, Col.	Mitchell, T. A.
Gardner, R.	Moffatt, G.
Gaskell, J. M.	Molesworth, rt. hon. Sir W.
Geach, C.	Monck, Visct.
Gibson, rt. hon. T. M.	Monseil, W.
Gladstone, rt. hon. W.	Montgomery, Sir G.
Gladstone, Capt.	Morris, D.
Glyn, G. C.	Mostyn, hn. T. E. M. L.
Goderich, Visct.	Mulgrave, Earl of
Goold, W.	Murrough, J. P.
Goulburn, rt. hon. H.	Norreys, Lord
Graham, rt. hon. Sir J.	O'Connell, D.
Greaves, E.	Oliveira, B.
Greene, J.	Osborne, R.
Greene, T.	Otway, A. J.
Greville, Col. F.	Paget, Lord A.
Grey, rt. hon. Sir G.	Paget, Lord G.
Grey, R. W.	Palk, L.
Grosvenor, Lord R.	Patten, J. W.
Hadfield, G.	Pechell, Sir G. B.
Hall, Sir B.	Peel, F.
Hankey, T.	Pellatt, A.
Hanmer, Sir J.	Pennant, hon. Col.
Hastie, Alex.	Perry, Sir T. E.
Hastie, Arch.	Peto, S. M.
Hayter, rt. hon. W. G.	Phillimore, J. G.
Headlam, T. E.	Phillimore, R. J.
Heathcoat, J.	Pigott, F.
Heathcote, Sir G. J.	Pilkington, J.
Heathcote, G. H.	Pinney, W.
Herbert, rt. hon. S.	Portman, hon. W. H. B.
Hervey, Lord A.	Price, Sir R.
Heyworth, L.	Price, W. P.
Hindley, C.	Ricardo, J. L.
Hogg, Sir J. W.	Ricardo, O.
Horsman, E.	Rich, H.
Howard, hon. C. W. G.	Robartes, T. J. A.
Hudson, G.	Robertson, P. F.
Hutt, W.	Roebuck, J. A.
Ingham, R.	Russell, Lord J.
Jackson, W.	Russell, F. C. H.
Johnstone, J.	Russell, F. W.
Johnstone, Sir J.	Sawle, C. B. G.
Keating, H. S.	Scholefield, W.
Keogh, W.	Seobell, Capt.
Kershaw, J.	Scott, hon. F.
King, hon. P. J. L.	Scully, V.
Kinnaird, hon. A. F.	Seymour, Lord
Kirk, W.	Seymour, H. D.
Knightley, R.	Seymour, W. D.

Shce, W.  
 Shelley, Sir J. V.  
 Smith, J. B.  
 Smith, rt. hon. R. V.  
 Smyth, J. G.  
 Stanley, Lord  
 Stanley, hon. W. O.  
 Stirling, W.  
 Strickland, Sir G.  
 Strutt, rt. hon. E.  
 Stuart, Lord D.  
 Sutton, J. H. M.  
 Tancred, H. W.  
 Thicknesse, R. A.  
 Thompson, G.  
 Thornely, T.  
 Tollemache, J.  
 Traill, G.  
 Tynte, Col. C. J. K.  
 Vane, Lord H.  
 Vane, Lord A.  
 Vernon, G. E. H.  
 Villiers, rt. hon. C. P.

Vivian, J. H.  
 Vivian, H. H.  
 Walsmsley, Sir J.  
 Walter, J.  
 Warner, E.  
 Whitbread, S.  
 Wickham, H. W.  
 Wilkinson, W. A.  
 Willcox, B. M.  
 Williams, W.  
 Willoughby, Sir H.  
 Wilson, J.  
 Winnington, Sir T. E.  
 Wise, A.  
 Wood, rt. hon. Sir C.  
 Woodd, B. T.  
 Wrightson, W. B.  
 Wyvill, M.  
 Young, rt. hon. Sir J.

## TELLERS.

Heywood, J.  
 Denison, J. E.

*List of the NOES.*

Adderley, C. B.  
 Alexander, J.  
 Arbuthnott, hon. Gen.  
 Baldock, E. H.  
 Bankes, rt. hon. G.  
 Barrow, W. H.  
 Beach, Sir M. H. H.  
 Bentinck, G. W. P.  
 Beresford, rt. hon. W.  
 Booker, T. W.  
 Burrell, Sir C. M.  
 Carnac, Sir J. R.  
 Cecil, Lord R.  
 Child, S.  
 Christy, S.  
 Clive, R.  
 Colville, C. R.  
 Dalkeith, Earl of  
 Deedes, W.  
 Disraeli, rt. hon. B.  
 Duncombe, hon. A.  
 Duncombe, hon. W. E.  
 East, Sir J. B.  
 Egerton, W. T.  
 Fellowes, E.  
 Filmer, Sir E.  
 Floyer, J.  
 Forbes, W.  
 Freshfield, J. W.  
 Frewen, C. H.  
 Galway, Visct.  
 George, J.  
 Graham, Lord M. W.  
 Granby, Marq. of  
 Grogan, E.  
 Hamilton, G. A.  
 Hawkins, W. W.  
 Heathcote, Sir W.  
 Heneage, G. H. W.  
 Irton, S.  
 Jones, Capt.  
 Knox, hon. W. S.  
 Leslie, C. P.  
 Lockhart, W.  
 Lowther, Capt.  
 Macartney, G.  
 Malins, R.  
 March, Earl of  
 Masterman, J.  
 Mowbray, J. R.  
 Mullings, J. R.  
 Napier, rt. hon. J.  
 Neeld, John  
 Neeld, Jos.  
 Newark, Visct.  
 North, Col.  
 Ossulston, Lord  
 Pakington, rt. hn. Sir J.  
 Palmer, Rob.  
 Palmer, Round.  
 Parker, R. T.  
 Portal, M.  
 Repton, G. W. J.  
 Shirley, E. P.  
 Smith, W. M.  
 Smith, A.  
 Spooner, R.  
 Stafford, A.  
 Taylor, Col.  
 Tyler, Sir G.  
 Tyrell, Sir J. T.  
 Vance, J.  
 Vyse, Col.  
 Waddington, H. S.  
 Walcott, Adm.  
 Walpole, rt. hon. S. H.  
 Walsh, Sir J. B.  
 Wigram, L. T.  
 Williams, T. P.

## TELLERS.

Henley, rt. hon. J. W.  
 Newdegate, C. N.

Clause read 2<sup>o</sup>.

MR. WIGRAM said, he understood that those who voted for the clause intended that the persons with whom the government of the colleges and Universities

should rest should still be members of the Church of England. It appeared to him, however, now that the subscription to the Thirty-nine Articles was abolished, that the protection remaining would be of an imperfect character. That protection consisted only in that passage of the Act of Uniformity which required a declaration of conformation to the liturgy of the Church of England. This guarantee, in practice, amounted to nothing, for Dissenters, and even Roman Catholics, might conform to the liturgy of the Church of England, though they would not subscribe to the Thirty-nine Articles. In fact, there was nothing in it which might not be conscientiously conformed to by either; and, therefore, there was nothing which precluded either from holding fellowships, and thereby from participating in the government of the University, as well as sharing its patronage, and taking part in the instruction of its youth. There was nothing, likewise, to prevent Roman Catholics from becoming professors under the circumstances, and so of exercising an enlarged influence over instruction in the University. He thought that this was not what the House intended, and he would therefore move a proviso which would have the effect of giving the same protection that existed at present against any one not a member of the Church of England holding office in any college. At the same time, he was quite willing to leave the whole matter in the hands of the University, and if they thought it right to qualify the present oaths in any way, he thought they should have power to do so.

Amendment proposed, at the end of the clause, to add the words,

"Provided always, that no person taking such degree shall be capable of holding any office, station, or emolument involving any duties or powers of government, administration, patronage, or instruction within the University or Colleges respectively, without having previously subscribed such oath and declarations as by the present law and usage of the University would have been required to be taken and made by him at any time or times previously to or at his taking the said degree; so that this present Proviso may be altered by any Statutes duly made by the University."

Question proposed, "That those words be there added."

MR. HEYWOOD said, he must decidedly object to this proviso. He had been censured for not giving more notice of his clause, and now here was a proviso, which was in fact an entirely new regulation, brought forward without any notice at all.

THE CHANCELLOR OF THE EXCHEQUER moved to add to the end of Clause 34 a proviso. The object of this proviso was to mitigate what he still believed would be the injurious working of this clause, which was added to the Bill on the Motion of the hon. and learned Member for Plymouth (Mr. R. Palmer). With regard to scholarships and exhibitions, the words would leave the clause as it stood, and would touch only the fellowships. The fellowships stood upon a different footing to the studentships. When the colleges were originally founded, they were not intended to be the great teaching offices of the Universities, from which the Universities were to draw their scholars, but offices of residence and study in the colleges. Now, however, the country expected from the colleges the University education; and though they had private halls, it was to the fellows of the colleges they had to look for the conduct of that education. The question was, whether the Bill, as it originally stood, did not sufficiently provide for the protection of the interest of the schools. Power was given to the colleges to propose reforms, and if they did not, then the Commissioners had the power, and an appeal was given to the Privy Council. That would have been a sufficient protection to a school like Winchester, which was supposed to have a right of succession to New College; but, under the clause introduced by the hon. and learned Gentleman the decision as to whether there should be any reform or not was left not only to the governing body of New College, but also to the governing body of Winchester, who would have to decide whether New College should still be a close college for the boys of Winchester or not? But was this governing body of Winchester School, a body so practically acquainted with New College or with the wants of Winchester School, to be intrusted with this duty? It was composed of ten clergymen, one of whom only took any active part in the affairs of the school, two others permanently resided in Winchester, and the other seven were never heard of there, and these were the persons who, under the hon. and learned Gentleman's clause, might nullify the purposes of this Bill and nullify the judgment of the Commissioners. As an illustration of the working of the present system, he might refer to the case of Winchester and New College; of the close fellowships ~~there~~ there were no less than four vacant at this

moment, because no persons tolerably fit had been sent up by the school to fill them. He called upon them not to deliver the governing and teaching body in the University into the hands of bodies which would be totally incompetent to perform the functions intrusted to them.

Amendment proposed in Clause 34, after the words "any emolument," to insert "other than a Fellowship or Studentship."

MR. ROUNDELL PALMER said, he considered it very unfortunate that the proposed Amendment had not been inserted in the Votes earlier, as many hon. Gentlemen had formed the opinion that this Amendment was not intended to be persevered in. The Amendment was entirely opposed to the principle of the clause to which the right hon. Gentleman alluded. The principle of his clause was, that schools were as much entitled to the emoluments and endowments connected with those schools as the colleges to the endowments and emoluments of the colleges. Now, the parties appointed to carry out the new Act were persons in no way interested in the schools—their purposes were entirely academical, and had reference only to academical objects. It could hardly be expected that persons would pay any due regard to the rights and interests of schools whose powers were so exclusively limited to academical objects. The whole rights and interests of the schools, except for the clause which the House had adopted, were to be dealt with by a side-wind, and were to be regarded as having merged into academical interests. It was not correct to describe fellowships and studentships as teaching offices, though he admitted the heads of colleges were generally selected from those bodies. If the effect of the clause was that it would force upon colleges such a number of fellows and students as could not furnish a proper body of tutors, that would be a serious objection. But such would not be the effect of the clause, and care had been taken by several Amendments to guard against possible objections of this character. To show how groundless was alarm on account of this clause, he would refer to the cases of Pembroke College and Balliol College, and scholars from Abingdon School. He begged to say that in no case would the college be left without a sufficiently well-qualified tutorial body. With respect to the scholars from Abingdon School, the college had the power of placing the qualification to emoluments as high as they pleased. This

would be a sufficient safeguard for the college. If they could not get boys from Abingdon School who came up to their own standard, they then could throw open the fellowships to all the world. Some thought, in giving the powers he had permitted to the college and the Commissioners, that he had gone too far; but he had been anxious to meet all objections, and to do away with all grounds for complaint or fear. It had been said that appeal could be made to the Privy Council for the preservation of the rights of schools. But the Commissioners would be guided only by the Bill, and the Bill totally ignored schools. It was purely and exclusively a University Bill. His point was, that colleges should not have the only voice in respect of continuing or otherwise fellowships attached to schools. The effect of the right hon. Gentleman's Amendment on Christ Church and St. John's Colleges would be more extensive than the right hon. Gentleman appeared to conceive. The effect of the Amendment would be to take the three great schools—Winchester, Merchant Taylors', and Westminster, out of the operation of the clause. This he objected to. He thought the House ought not to trust to the way in which a particular body of persons would discharge a particular duty. The House ought to legislate upon general principles when legislating on such an important subject. If the Amendment was carried, it would possibly tend to impair the value of these great schools as educational institutions. It was not right to leave these three great schools dependent on the caprice or prejudices of particular persons or colleges for endowments and emoluments which had been enjoyed by those schools since their foundation. There was no sound principle for submitting the interests of these great schools to the judgment of colleges. Again, if the Amendment was now conceded, they could not refuse next year to legislate in the same way for Eton. The right hon. Gentleman had gone on the supposition that it would not be right to intrust the governing body of these great schools with the power of deciding whether it would be for the advantage of the schools, or otherwise, that endowments and emoluments which they enjoyed ought to be abolished. Now, in reply to this, he would refer to the character and composition of the governing bodies, and to the way in which they had throughout discharged their duties. A reference to the scholars elected to the en-

dowments would establish the accuracy of that assertion. He trusted that Members interested in the different schools throughout the country, and more especially the Members for Scotland, with reference to the Snell Exhibitions attached to the University of Glasgow, would not forget that the principle for which he was contending was a principle of which they had had the benefit, but of which they would not have the benefit if they followed the advice of the right hon. Gentleman the Chancellor of the Exchequer, who had declared that he considered the principle of the clause altogether mischievous.

Mr. LOWE said, that the hon. and learned Member for Plymouth (Mr. R. Palmer) had, on a previous occasion, carried a Resolution, the effect of which was, that two-thirds of the governing body of any school might put a veto upon any regulation of the Commissioners for the abolition of preferences in the nomination to any exhibitions, scholarships, fellowships, or studentships, and now it was proposed to modify that Resolution. But, in his opinion, the hon. and learned Gentleman would have saved himself much circumlocution if he had proposed to enact that, in cases of preferences to scholarships, fellowships, studentships, or exhibitions, no alteration should be made in the present system. It would have been much shorter to do so, and the effect would have been precisely the same as that of the present proposal; and he should deal with the subject as if such had been in reality the proposition. It was the inclination, and, no doubt, it might be the duty, of the governing powers of schools to refuse, upon any consideration, to allow the emoluments to which they considered the schools to be entitled to be taken away. They were not bound to adopt cosmopolitan or national views upon the subject; but, on the contrary, as their duties were narrow, so their views would be narrow, and they would be influenced by local interest. He objected to the principle of the hon. and learned Gentleman that these fellowships and emoluments belonged to the schools alone. The hon. and learned Gentleman appeared to regard the school as everything, while in his mind the college was a mere appanage; he treated the school as the mother-country, the college as the colony, but such was not, he thought, a correct view of the case. The colleges of Oxford constituted the University, and it was from fellows of colleges that the governing body of the

University was supplied, and also the tutors. If, therefore, those fellowships were bestowed upon those schools, or awarded upon any consideration other than that of merit, no surer method could be adopted of keeping down rising talent, and the case might happen, as he had known it to happen, of a young man being compelled to listen to lectures from a person inferior to himself in knowledge. He looked upon colleges as great corporations, and surely they ought to be allowed to choose their own members. The hon. and learned Gentleman had likewise said that he would allow the Commissioners to raise the standard of merit in the case of persons coming from close schools, and, if the regulations they made were not complied with, that then these fellowships and studentships might be considered open; but he could not imagine anything worse than that it should go forth that any such arrangement was contemplated by that House. It appeared to him that the creed of the hon. and learned Gentleman was, "Let us have ignorance if we can, but if we cannot have that, then let us have merit;" but that was surely not a principle upon which the education of the country could be carried on. The case of Balliol had been referred to, but how had that college, during his own recollection, risen to the high rank in the University it now held? It was simply because the fellowships had been given to the best men in the University. With regard to Winchester, he could tell the House what Winchester was when he was acquainted with it. It was said now that boys of the ages of eight, nine, or ten years were to be admitted according to merit, and so the merit of a boy of that age would be sufficient to decide his position for life. In his time there was no question of merit at all, it was entirely a matter of interest; and relationship to persons dead for hundreds of years, or the possession of influential friends, was of infinitely more importance than merit. There were two effects generally attendant upon fellowships—a good and a bad effect. The good effect was, that they made a man work, and the bad effect, that when a person had obtained a fellowship it prevented him working. In the case of a boy whose chance of a fellowship was decided at fourteen or fifteen years of age all stimulus to future exertion was withdrawn; and that was not the only evil. It might happen that, in order of merit, four or five commoners were superior to boys on the foun-

*Mr. Lowe*

dation, but the boys on the foundation were appointed to fellowships, while the commoners were left to get on in the world as they best could, so that, in point of fact, the principle inculcated was, that industry and merit were very good things, but that interest was a great deal better. That was the practical lesson which he had learnt at Winchester, and was what had fallen to his share. The effect of that system was, that boys from the school, when they became undergraduates, had more facility for cultivating society, and they made the University very agreeable; but he found that, in many cases, the habits of economy which they acquired were not suitable to the station they were afterwards called upon to fill. Another bad effect of the system was, that a boy was thrown among a certain number of associates, both at school and college; if these associates were good ones, so much the better; but, if not, from the circumstance of the boys from one school going to the same college, he could not change his set when he arrived at the University. With regard to the alteration proposed to be made in the admission of boys to Winchester, he could only say that he was glad for his own sake and for that of the hon. and learned Gentleman, and of his right hon. Friend near him (Mr. Cardwell), that no such change was made in his time; for, if it had, they would have been elected to the foundation, and then have gone to New College, and been all three ruined. He hoped that the House would bear in mind that the question really was, whether they would do those boys on the foundation of these schools the irreparable injury of making their fortunes for them before their minds were developed. It was also to be remembered that thirty-five writerships in the East India Company's service had been thrown open to public competition, and that they were of greater advantage to a young man than a fellowship of Oxford, and every means ought to be employed to preserve at Oxford as much talent as possible. That was not to be done by the principle of close fellowships, but the system which had in other cases worked so well ought to be introduced at the University, he meant the system of free and open competition.

SIR WILLIAM HEATHCOTE said, that the greater number of the arguments used by the hon. Gentleman who had just spoken had been anticipated and answered by the hon. and learned Member for Ply-

mouth. The hon. Member had argued on the supposition that it was desired to keep up the emoluments as they at present existed, but all that his hon. and learned Friend (Mr. R. Palmer) wished to maintain was existing rights. His hon. and learned Friend the Member for Plymouth would leave it open to the colleges to form the most stringent regulations with respect to University distinctions. The hon. Member for Kidderminster (Mr. Lowe) said, that the governing body of schools had not large cosmopolitan views. He hoped the hon. Gentleman did not mean that Oxford was to be actuated by cosmopolitan views at the expense of others. With respect to Winchester, it was known that the authorities of the school had a plan under consideration for giving greater competition among themselves for admission to New College, and there was nothing in the clause to prevent the authorities of New College making any stronger regulations they might think fit to ensure application and industry on the part of the youths of the college. What he contended for was, that Winchester should not be deprived of the powers of sending its scholars to New College, and that the advantages it enjoyed should not be diminished.

MR. GRANVILLE VERNON said, he had not intended to speak on the present question, but he felt bound to state that his views had changed since he entered the House. He had entertained a strong feeling as to the schools being quite as important as the rights of the University itself. He had voted in favour of the Resolution of the hon. and learned Gentleman (Mr. R. Palmer), but the debate that evening had convinced him that he would not be justified in perpetuating abuses which were proved to exist. The character of those endowments had entirely changed. They had been intended to advance men in life, but now persons went to the University so much younger, that they had already started in life before they got the benefit of them. He thought that the claims of Christ Church had not been fully attended to in the Bill; it was left in a very anomalous state as regarded its connection with the schools, but he felt bound to give a vote contrary to his former one.

MR. HENLEY said, that the hon. Member for Kidderminster had assumed that the proposition of the hon. and learned Member for Plymouth was equivalent to one which should propose to retain, without any modification, the preferences and

privileges of schools in their entirety, as they at present existed. But it was quite as open for those on that side to assume—in spite of the modifications and checks proposed—that the object of the Bill was to sweep away all the endowments of the University, or to remodel them according to their own wish. He thought that the argument of the hon. Member for Kidderminster was more in favour of the clause of the hon. and learned Member for Plymouth (Mr. R. Palmer) than of the proposal of the Chancellor of the Exchequer. The hon. Member said, that they must look to the colleges for the governing body of the University, but the hon. Gentleman had not alluded to the new halls, and did not say whether they were to have anything to do with the governing body. With regard to Balliol, it had been stated that an actual bargain existed, and there was much force in what the hon. and learned Member for Plymouth said with respect to that college. With regard to Jesus College, he would observe that the authorities hoped to confine it to all the schools in Wales, and therefore those Gentlemen who were so fond of competition would not let in a Scotchman or Englishman, but they stuck to Welshmen altogether. Then as to Pembroke College, it was originally founded for the school at Abingdon, and it would not be quite honest to throw overboard the trust created, and leave the school out of consideration. After all, the clause must rest upon the ground, that where there were two parties concerned, they could not leave the regulation of the whole affairs in the hands of one, and not give the body equally interested a part of the control. The preamble of the Bill had been altered without notice. The right hon. Gentleman (the Chancellor of the Exchequer) had struck out the most important words—words which had reference to the intentions of founders; and, in its present shape, the Privy Council would not take much notice of the founder's intentions. Altering the preamble without notice ought not to have been done. He should vote against the Amendment.

SIR THOMAS ACLAND said, that from the terms of the right hon. Gentleman's Amendment, he should be inclined to say that it was directed against the Blundell School, at Tiverton, of which he was a trustee, and its connection with Balliol College. The scholarships belonging to that foundation were always filled up, and they finally issued in two follow-

ships at Balliol, which fellowships were precisely aimed at by the Amendment of the right hon. Gentleman. This certainly affected the interests of Balliol as a place of education. There were ten or twelve open fellowships in that college; and the two remaining ones were filled up by the men sent from Tiverton. And, on this subject, he could assure the House that the trustees always endeavoured to have the competitors at the examination classed according to their merits before they passed for selection. The provisions of the trust required that the trustees should have regard to merit, and to the condition of those whose parents were least able to afford the expenses of education. This was done; and the boys were divided into three classes, so that the trustees were enabled to fulfil their duties according to the intentions of the trust. If the right hon. Gentleman would leave the school alone, he did not deny that some improvement might be made in the arrangements with Balliol College; but he protested against the funds of the school being applied to the endowment of open fellowships. He objected, also, to the sacrifice of one of the fellowships. He believed the adoption of the Amendment proposed by the Chancellor of the Exchequer would be detrimental to the interests of the school which he had referred to, and to the opportunities which a local school afforded for stimulating young men to exertion.

MR. J. G. PHILLIMORE said, it appeared to him that the state of the question was this—the House having decided distinctly, and by a not inconsiderable majority, in spite of the opposition of the Government, in favour of the clause moved by the hon. and learned Member for Plymouth, they were now undoubtedly taken by surprise by a Motion which would substantially destroy the effect of their previous decision, with one very unimportant exception. That exception was the Snell exhibitions; but he hoped that hon. Members from the North would not, in consequence of that exception, be induced to depart from a principle which they had upon a former occasion supported. It might be a successful artifice, and be an ingenious device worthy of a great statesman, to take such means of securing a majority; but he would sooner be in the smallest minority that ever divided that House, than attempt to obtain the end by such means. He had listened with considerable surprise to the very flippant tone

*Sir T. Acland*

in which the hon. Member for Kidderminster had treated the question; but he observed with regret that from the beginning to the end he did not make a single allusion to the principle of justice which was involved in the question. All that his speech amounted to was, that it was convenient to take the money of these schools. Every consideration of justice and feeling, every consideration to which a court of justice would listen, was entirely put aside by the hon. Member. He begged to remind the hon. Member that no nation and no community gained by a direct disregard of the principles of justice, and if they set an example of this sort it might not possibly stop with these confiscations which were now proposed for their convenience. The time might come when such a precedent, employed in worse days, and with a more mischievous spirit, might be productive of the most fatal consequences. There was not a single argument, however, which had been used by his hon. and learned Friend (Mr. R. Palmer) in which he had not been anticipated by the right hon. Gentleman in 1850, when he opposed the Commission. At that time he particularly dwelt upon the fact that examination was often a fallacious test; yet now he put forward a successful examination as a reason for sweeping away these school foundations and every obligation connected with them. He said, too, at that time, that greater injury could hardly be inflicted upon the poor than by the noble Lord's measure; yet here he was himself inflicting that injury. He (Mr. J. G. Phillimore) trusted that in spite of artifice and sophistry these institutions would be maintained intact and inviolate. He trusted that the House of Commons would not consent to maim and mutilate those noble institutions which Cromwell himself had spared. He trusted that institutions which had survived the civil wars would survive tricks and artifice in the House of Commons. He trusted they would survive the machinations of which they had to-night had an example. He would entreat the right hon. Gentleman, in words that he well knew were familiar to him, to return to his former opinions and preserve the connection between these ancient foundations and the University—

“Lift not thy spear against the Muses' bower;  
The Great Emathian conqueror bade spare  
The house of Pindarus, when temple and tower  
Went to the ground; and the repeated air  
Of sad Electra's poet had the power  
To save the Athenian walls from ruin bare.”

MR. HEYWOOD said, it was his intention to support the right hon. Gentleman the Chancellor of the Exchequer's proposition.

MR. DUNLOP said, he should repeat the vote which he had given the other night in favour of the clause, as proposed by the hon. and learned Member for Plymouth (Mr. R. Palmer)—although, if anything could have induced him to alter that vote it would have been the kind of appeal made by the hon. and learned Member for Leominster (Mr. J. G. Phillimore), who seemed to imagine that the Scotch Members required to be shamed out of taking a course which he (Mr. J. G. Phillimore) had held up to reprobation. They needed no such inducement; and although he entirely acquitted the Chancellor of the Exchequer of any attempt to lure the Scotch Members into giving their votes in support of the present proposition, he felt that the principle involved now was the same as had been moved when the hon. and learned Member for Plymouth had first brought this subject under the consideration of the House; and although Scotland was now safe, he still considered it his duty to take the course which he had.

Question put, "That those words be there inserted."

The House divided:—Ayes 129; Noes 139: Majority 10.

#### List of the AYES.

Aglionby, H. A.	Drumlanrig, Visct.
Atherton, W.	Elcho, Lord
Baines, rt. hon. M. T.	Fagan, W.
Ball, J.	Feilden, M. J.
Bell, J.	Ferguson, Sir R.
Berkeley, Adm.	Fitzroy, hon. H.
Bethell, Sir R.	Forster, J.
Blackett, J. F. B.	Fortescue, C. S.
Bland, L. II.	Fox, R. M.
Bouverie, hon. E. P.	Fox, W. J.
Brady, J.	Gardner, R.
Brotherton, J.	Geach, C.
Bruce, Lord E.	Gibson, rt. hon. T. M.
Buckley, Gen.	Gladstone, rt. hon. W.
Cardwell, rt. hon. E.	Glyn, G. O.
Cheetham, J.	Graham, rt. hon. Sir J.
Clay, Sir W.	Greene, J.
Clinton, Lord R.	Grey, rt. hon. Sir G.
Cockburn, Sir A. J. E.	Grosvenor, Earl
Cogan, W. H. F.	Hadfield, G.
Coote, Sir C. H.	Hankey, T.
Cowper, hon. W. F.	Headlam, T. E.
Craufurd, E. H. J.	Heneage, G. F.
Crook, J.	Herbert, rt. hon. S.
Crossley, F.	Hervey, Lord A.
Dashwood, Sir G. II.	Heywood, J.
Denison, J. E.	Heyworth, L.
Dent, J. D.	Hindley, O.

Hutt, W.	Portman, hon. W. H. B.
Ingham, R.	Price, W. P.
Jackson, W.	Richardson, J. J.
Keating, R.	Rumbold, C. E.
Keogh, W.	Russell, Lord J.
Kershaw, J.	Russell, F. C. H.
King, hon. P. J. L.	Russell, F. W.
Kirk, W.	Sadleir, Jas.
Langston, J. H.	Sawle, C. B. G.
Langton, H. G.	Scobell, Capt.
Lee, W.	Scully, F.
Littleton, hon. E. R.	Scully, V.
Locke, J.	Seymour, W. D.
Lowe, R.	Shafto, R. D.
McCann, J.	Smith, J. B.
MacGregor, John	Strickland, Sir G.
M'Taggart, Sir J.	Strutt, rt. hon. E.
Miall, E.	Tancred, H. W.
Milligan, R.	Thicknesse, R. A.
Milner, W. M. E.	Thornely, T.
Molesworth, rt. hon. Sir W.	Vernon, G. E. H.
Monck, Visct.	Villiers, rt. hon. C. P.
Monsell, W.	Vivian, H. H.
Mulgrave, Earl of	Walsmsley, Sir J.
Norreys, Lord	Watkins, Col. L.
Norreys, Sir D. J.	Whitbread, S.
North, F.	Wickham, H. W.
O'Connell, J.	Wilkinson, W. A.
Osborne, R.	Willcox, B. M.
Palmerston, Visct.	Williams, W.
Pechell, Sir G. B.	Wilson, J.
Peel, F.	Winnington, Sir T. E.
Pellatt, A.	Wood, rt. hon. Sir O.
Perry, Sir T. E.	Wyvill, M.
Peto, S. M.	Young, rt. hon. Sir J.
Pilkington, J.	TELLERS.
Pinney, W.	Hayter, rt. hon. W. G.
Pollard-Urquhart, W.	Berkeley, C. L. G.

#### List of the NOES.

Acland, Sir T. D.	Duncombe, hon. W. E.
Alexander, J.	Dundas, G.
Anderson, Sir J.	Dunlop, A. M.
Arbuthnott, hon. Gen.	Dunne, Col.
Ball, E.	East, Sir J. B.
Barrow, W. H.	Egerton, E. C.
Bateson, T.	Ewart, W.
Beach, Sir M. H. H.	Fellowes, E.
Bentinck, G. W. P.	Fergus, J.
Beresford, rt. hon. W.	Filmer, Sir E.
Booker, T. W.	Floyer, J.
Bramston, T. W.	Follett, B. S.
Brooklehurst, J.	Forbes, W.
Brockman, E. D.	Freshfield, J. W.
Burghley, Lord	Frewen, C. H.
Burrell, Sir O. M.	Galway, Visct.
Burroughes, H. N.	George, J.
Cayley, E. S.	Gilpin, Col.
Child, S.	Goderich, Visct.
Clinton, Lord C. P.	Goulburn, rt. hon. H.
Clive, R.	Greaves, E.
Cobden, R.	Greene, T.
Cocks, T. S.	Grogan, E.
Codrington, Sir W.	Hamilton, G. A.
Corry, rt. hon. H. L.	Hanbury, hon. C. S. B.
Davie, Sir H. R. F.	Hastie, Alex.
Davies, D. A. S.	Hawkins, W. W.
Davison, R.	Hayes, Sir E.
Denison, E.	Heathcoat, J.
Disraeli, rt. hon. B.	Henley, rt. hon. J. W.
Dod, J. W.	Higgins, G. G. O.
Duncan, G.	Hildyard, R. C.
Duncombe, hon. A.	Horsfall, T. B.

Hotham, Lord  
Hume, W. F.  
Irton, S.  
Johnstone, J.  
Jolliffe, Sir W. G. H.  
Jones, Capt.  
Keating, H. S.  
Ker, D. S.  
King, J. K.  
Knightley, R.  
Laslett, W.  
Lennox, Lord A. F.  
Lennox, Lord H. G.  
Liddell, H. G.  
Lockhart, W.  
Lucas, F.  
Macartney, G.  
Mackie, J.  
Maguire, J. F.  
Malins, R.  
March, Earl of  
Masterman, J.  
Michell, W.  
Montgomery, Sir G.  
Moody, C. A.  
Mowbray, J. R.  
Mullings, J. R.  
Mundy, W.  
Muntz, G. F.  
Murrough, J. P.  
Naas, Lord  
Napier, rt. hon. J.  
Neeld, John  
Neeld, Jos.  
Newark, Visct.  
Newdegate, C. N.  
North, Col.  
Otway, A. J.

Pakington, rt. hn. Sir J.  
Palmer, Rob.  
Pennant, hon. Col.  
Percy, hon. J. W.  
Phillimore, J. G.  
Phillimore, R. J.  
Pritchard, J.  
Robertson, P. F.  
Sandars, G.  
Scholefield, W.  
Scott, hon. F.  
Shirley, E. P.  
Smith, W. M.  
Somerset, Capt.  
Spooners, R.  
Stanley, Lord  
Stuart, Lord D.  
Taylor, Col.  
Thesiger, Sir F.  
Thompson, G.  
Tomline, G.  
Tyler, Sir G.  
Tyrell, Sir J. T.  
Vance, J.  
Vansittart, G. II.  
Vivian, J. E.  
Waddington, H. S.  
Walcott, Adm.  
Walpole, rt. hon. S. II.  
West, F. R.  
Wigram, L. T.  
Willoughby, Sir H.  
Wise, A.  
Woodd, B. T.  
Wrightson, W. B.  
TELLERS.  
Palmer, Round.  
Heathcote, Sir W.

Bill passed.

#### THE WAR WITH RUSSIA—DESTRUCTION OF STORES AT ULEABORG—QUESTION.

On the Motion that the Speaker do leave the Chair for the purpose of going into Committee of Supply,

MR. MILNER GIBSON said, he was desirous of calling the attention of the right hon. Gentleman the First Lord of the Admiralty to some late proceedings of the Baltic Fleet, and as he could ask for explanations now with as little interruption to public business as at any future time, he would take that opportunity of doing so. Communications had been made to him by persons in whom he had the fullest confidence, and statements had also been made in the public papers, relative to the proceedings of a portion of the British squadron in the Baltic, and if the information which he had received, and the statements to which he had alluded were not correct, he should be very glad to have them contradicted; but if they were correct, he thought the circumstances which had taken place were inconsistent with the professions of the Government, as they were certainly

considered by persons who were anxious that this war should be carried on with vigour against the Russians to be highly impolitic. It was on these grounds that he thought the House was entitled to ask for an explanation from the Government; and he begged to state that he did not rise with the slightest desire to cast any reproach upon Admiral Plumridge, or the officers of Her Majesty's squadron, who, no doubt, in anything which they had done had been guided solely by a desire to perform strictly their duty, and had deviated neither to the right hand nor to the left, but had been actuated solely by that which always characterised the officers of Her Majesty's Navy—a steady adherence to the path which duty pointed out to them to take. He put this question, therefore, to the First Lord of the Admiralty, with the view of obtaining an explanation of the policy, for which he presumed the right hon. Gentleman and his Colleagues were responsible, and not with a desire to throw odium or reproach on those who, he had no doubt, might have, in the course of this war, very painful duties to perform. Now the facts, as he was informed, were these:—There was a small town in the Gulf of Bothnia, called Uleaborg, which was a purely commercial place, and which, when visited in the course of the present month, by three of Her Majesty's vessels, was found to be in a perfectly defenceless state, not having a single fortified place, nor any munitions of war. Deputations from the inhabitants went out in a boat to communicate with the Admiral, and to ask him his intentions, and they informed him, at the same time, that they were entirely defenceless, and threw themselves upon his mercy. In order, however, to be accurate, he would read the exact statement which had been submitted to him:—

"In consequence of the events at Brahestad, a deputation was sent out to the enemy to ask what was his object, and to inform him that we were quite defenceless, and threw ourselves entirely on his mercy. In answer, we received five copies of a proclamation in the English and Swedish languages to the following purport:—

"The English Admiral will not molest or injure private persons or their property. He only intends to destroy the castles and defences, shipping and property of the Emperor of Russia. So long as the inhabitants continue peaceably within their houses they will be protected, but should they offer assistance to the Russian troops they will be treated as enemies. The English Admiral desires that the women and children be sent out of the town.

"HANWAY PLUMRIDGE, Rear-Admiral.

"H.B.M.S. *Leopard*, at Uleaborg, June 1."

Hereon the deputation remarked, 'That they had in this case nothing to fear, since they had neither soldiers, fortresses, nor contraband of war.' But the Admiral answered, 'You have a large store of tar, deals, timber, ships building, and materials for constructing them. These shall be burnt.' The deputation answered, 'That all this was private property, and in no respect intended for warlike purposes; that a great part of the deals were English property, and that several young merchants who were building ships had received advances from England to assist them in their undertakings and in their shipments of tar.' The Admiral answered, 'If Englishmen have property here, that is not my concern, and I can't help it. I am sorry for it, but I must fulfil my duty. In ten minutes I shall begin operations.'"

With the proclamation nobody could find fault, for it was entirely in accordance with its principles that property should be respected, and that, unless the exigencies of the war required it, it should not be interfered with; that, in fact, there should be no wanton interference with private property. But, in respect to this private property, he was informed that information was given and evidence taken—for he understood that officers had landed and had seen and judged for themselves—that it was entirely commercial in its character, and was intended to be shipped for this country. He was told that not a particle of that property belonged to the Russian Government. There were no gunboats building; there were no gunboats built. A great part of it was unquestionably English, and had probably been bought and paid for before the declaration of war, for it could not have been removed earlier in consequence of the ice. That being the case, and it being the property of an enemy, of an Emperor of Russia, according to the practice of war the Emperor of Russia was much more likely to have seized it than themselves. He was told that, in point of fact, there was a considerable quantity of tar there which was the property of parties in London who had contracted with the Admiralty to supply tar for the use of Her Majesty's dockyards; and was intended to have been delivered from part of that supply. He was informed that the parties who had undertaken this contract apprised the Government of this country that they had bought and paid for the tar, but that it was at Ulenborg, in Finland, and unless some licence or permission were granted, to allow it to be brought through the blockade squadron, the contract could not be fulfilled. He understood the answer was, that though no licence could be given, yet if neutral vessels were sent to Ulea-

borg to fetch the tar they would be allowed to pass unharmed through the squadron, and to bring the tar home for the use of Her Majesty's vessels. So that instead of burning the property of the Emperor of Russia, they burnt what was wanted by, and what would have come into the use of Her Majesty's Government. If he was wrong in this, he should be happy to hear it contradicted by the right hon. Gentleman. But if this tar was under contract to be delivered to our Government, its destruction by Admiral Plumridge's squadron would give rise, without doubt, to a case of compensation; and the British public would have claims made upon it similar to the Danish claims for the loss of the property destroyed. Now, he questioned the policy of making these attacks upon private property in small defenceless villages on the coast of Finland. England could have no object to gain in exasperating the population of Finland, the trade of these ports being almost exclusively carried on with this country. No doubt the laws of war would justify such a proceeding, if it could be shown that the exigencies of war required it; but such a case of necessity had yet to be made out. He had received a letter from a gentleman in the City, engaged in the Baltic trade, an extract from which he would read to the House—

"According to the accounts I have received from Finland, the English landed at Ulenborg, a defenceless place, without meeting any resistance. They immediately set fire to six new merchant vessels on the stocks and one just launched, then to all the ship-building materials, and afterwards to the entire stock of goods lying at the wharves for exportation, consisting of a large quantity of timber and deals, and from 17,000 to 20,000 barrels of tar, as well as to eight ships afloat in the harbour. At Brahestad the English, equally unresisted, burnt five merchantmen on the stocks and six afloat, also 1,000 dozen of deals, 8,000 barrels of tar and pitch, and various other things, including a quantity of corn and salt, the whole estimated at 400,000 silver roubles. To the best of my belief, nearly all, if not the whole, of the property destroyed was private property—some of it British. This destruction of property can only affect the Russian Government and its power of carrying on the war in a very indirect and remote way. It will act much more directly on ourselves, for, of the 30,000 barrels of tar destroyed, the greater part would have found its way to our own dockyards and shipowners, who will not easily get supplied with this article elsewhere; whereas, under present circumstances, Russia wants none, or only such small quantities as she can readily and speedily obtain at home. To talk of this store of tar and deals as being contraband of war is therefore the acme of absurdity, and it is clear that, contrary to the professions of our Government and of Admiral Plum-

ridge himself, that private property should be spared when the exigencies of war did not demand its destruction, it has in these cases been wantonly and unnecessarily destroyed."

Our men and officers exposed their lives in the performance of acts of war, from which, if successful, there was no gain, and which would not hasten in the smallest degree the ultimate conclusion of hostilities. Finland could hardly be said to be a part of Russia, for it had been annexed to Russia after a strong resistance from the Fins. Such proceedings, therefore, could only give offence to the Finlanders, and also to the Swedes, who were our best friends. He (Mr. Milner Gibson) wished to guard himself against being supposed to reflect, in any way, upon the naval officers concerned in these transactions, because he believed that they had only acted upon their instructions. All he asked from the Government was, that they should vindicate the policy they had pursued in the circumstances which he had brought under the notice of the House.

SIR JAMES GRAHAM: Sir, I was not exactly aware that the right hon. Gentleman intended this evening to go into so much detail on the subject which he has brought under the notice of the House; and I therefore did not bring down all the despatches with reference to this subject. They only arrived this morning, and tomorrow they will be published in the *Gazette*, and then the House and the public will be better enabled to form their opinion upon the circumstances to which the right hon. Gentleman has alluded. But he has relieved me from any difficulty upon one head, which indeed would have been a difficulty of a most oppressive character, namely, if he had impugned the conduct of the British officers and gallant men who were employed on the service now in question. The right hon. Gentleman says, and says very truly, that those officers and men have executed their duty honourably, and have faithfully obeyed their instructions, and are not open to any censure whatever, so far as the authority presiding over naval affairs is concerned, in the conduct which they have pursued. Any blame attached to them attaches to the Government and to those who employed them, and not to the officers and men themselves. Now, Sir, I know not that it is expedient, as the matter now stands, that I should offer any elaborate defence with reference to the instructions given for the destruction of Russian property. We all knew that it is

*Mr. M. Gibson*

among the other objects of war to buy and destroy the property of the enemy and although the right hon. Gentleman says that Finland can hardly be called part of Russia, yet for the last twenty years at least that has been a sad reality, and Finland has been treated by Russia the same as Riga, or any other part of her territories on the opposite shore of the Baltic. And then, with respect to the articles to which the right hon. Gentleman referred, namely, cordage, timber, tar, and the other articles destroyed on this occasion, the House must be aware that with regard to Sweden and Denmark we have treaties of neutrality in which certain articles are specified, which even with reference to neutrality are held to be contraband of war; and the very articles which were in this instance destroyed are so enumerated in these treaties, and in our treaties both with Sweden and Denmark. While these countries preserve their neutrality, they are prohibited from conveying to the enemy timber, cordage, pitch and tar, which were the very articles we have destroyed in the enemy's ports and had they been found by British cruisers proceeding from Denmark or Sweden to any Russian port, even by the law of nations, apart from these treaties, they could have been dealt with as contraband of war. Now, I think I cannot do better than quote from the despatches of Sir Charles Napier, which we received only this morning, giving a summary of what had been done in the Gulf of Bothnia.

"I beg leave to inclose Admiral Plumridge's report of his proceedings in the Gulf of Bothnia from the 5th of May to the 10th of June, by which their Lordships will observe that he has destroyed forty-six vessels afloat, and on the stocks, amounting to 11,000 tons; from 40,000 to 50,000 barrels of pitch and tar, 6,000 square yards of rough pitch, a great number of stacks of timber, spars, plank and deal, sails, rope, and various kinds of naval stores to the amount of from 300,000*l.* to 400,000*l.*, without the loss of a man.

Now, that is the first operation of our squadron. It has been said that we have been unsuccessful in destroying the Russian fleets. Well, but Russia has not afforded us any opportunity of doing it. We have to deal with an enemy who has boasted that the Baltic and the Black Seas are to be regarded as his own lakes. We have entered those seas with our allies, the French, and given the fleets of the enemy opportunities of meeting us on many occasions with a superior force; but they have skulked and remained in their harbours. We

have offered battle upon fair terms, but that they have declined. Whilst we have occupied the enemy's seas his fleets have not ventured to appear either with his ships of war or merchantmen; and we have been driven to the alternative of visiting their ports and destroying their merchantmen upon their own shores. This we have done to the extent described by Sir Charles Napier. The despatch proceeds to state that—

“Admiral Plumridge has had to contend with innumerable rocks and shoals incorrectly laid down in the charts, and met the ice up to the 30th of May; nevertheless, though several of his squadron have touched the ground, I am happy to say they have received no damage that he is not able to repair with his own means. The Rear Admiral, their Lordships will observe, speaks in the highest terms of the captains, officers, seamen, and marines, and particularly of Lieutenant B. P. Priest, the first lieutenant of the *Leopard*, an old and deserving officer; and Lieutenant Hammet, his flag-lieutenant.”

As relates then to the success of the operation, we have it that 11,000 tons of the enemy's ships have been destroyed, and from 300,000*l.* to 400,000*l.* worth of his property. Now it is said that a portion of this is British property. No doubt. It is impossible to make war with a foreign Power with which for a very long period we have entertained the most amicable relations and carried on a most extensive commerce, without inflicting very considerable injury on our own merchants. But this is among the great evils attendant on war itself, and if you are really to inflict injury upon your enemy, it is impossible, at the commencement of a war, with a sudden rupture of commercial relations occurring, to avoid entailing some incidental evil of the same kind upon your own countrymen. But the right hon. Gentleman said there was a blockade; he has been misinformed—there was no blockade at Uleaborg. [Mr. M. GIBSON: I did not say that there was.] The right hon. Gentleman said he understood that an application had been made to the Board of Admiralty with respect to the export from Uleaborg of certain pitch and tar which was intended to be delivered under contract to the English Admiralty, and that a request was made that a licence should be granted by which the blockade might be avoided.

MR. MILNER GIBSON: Allow me to explain. What I said was, that I understood that the parties, fearing there might be a blockade, and being under contract to deliver tar for the use of the British dock-yards, asked that, in the event of there

being a blockade, they might have a licence to pass the blockading squadron; and that intimation was given them that licences could not be granted, but that if neutral vessels were sent to Uleaborg for the goods, care would be taken that they should be allowed to pass without let or hindrance.

SIR JAMES GRAHAM: At all events that confirms my statement that there was no blockade, and by agreement between France and England, even if there had been one, no licences could have been granted. But according to the law of nations, for a certain time before a blockade is instituted, ships that have taken in cargo and been laden before its institution, would be entitled to pass without molestation and without damage. Now this is a case in which the squadron visits the enemy's ports for the purpose of destroying his property and inflicting on him what is, under the circumstances I have stated, a very material and serious injury to him. The right hon. Gentleman, I think, said that there were no preparations of a warlike character at the ports he had named, and no property belonging to the Government of Russia there. Now the House must remember that the fleets of Russia declining the conflict in the manner I have described, we have been threatened with a swarm of gunboats, which were in course of preparation, in order to inflict injury upon our larger ships in shallow water, and in those narrow seas. As a measure of precaution Sir Charles Napier most wisely determined upon visiting all the ports where he thought these gunboats might be taking shelter, or in the course of fitting out. I hope the House will allow me to read extracts from despatches received to-day from Captain Giffard, detailing the operations of his crew at various places. The first is from a letter from Captain Giffard, of Her Majesty's ship *Leopard*, dated off Uleaborg, the 4th of June, 1854—

“From the enemy having sunk all their shipping, it was found that no vessels could be rendered serviceable to embark any of the valuable property without great loss of time, and it was burnt without a murmur or thought of prize-money.”

The next is a letter from Lieutenant B. P. Priest, of Her Majesty's ship *Leopard*, to Captain Giffard, of that ship, dated May 30, 1854, off Brahestad—

“Burnt on shore and totally destroyed—namely, four large vessels building and nearly complete on the stocks, the largest being about 500 tons burden, and pierced for six guns; three detached stores

of timber, fit for building ships of large scantling; two detached storehouses, containing some thousand barrels of pitch, tar, and oil, a large number of them marked with the Imperial crown. I was very careful not to damage the private houses; at the same time I satisfied myself, by personal inspection, that there was no contraband of war within those storehouses, which were situated within the immediate vicinity of and inside the town, which I did not destroy. Two large stores on the outskirts of the town were found to contain flour; these were not destroyed, as I had reason for supposing it to be private property. All the officers placed under my orders vied with me in preventing unnecessary alarm to the inhabitants; and I feel it to be my duty to report the alacrity, great steadiness, and good conduct, shown by all the officers and seamen employed on this service."

A letter from Lieutenant N. Graham to Captain Giffard, of Her Majesty's ship *Leopard*, dated off Uleaborg, June 2, 1854, states—

"I then searched the village on the adjacent island; but finding no stores contraband of war, I re-embarked, and proceeded in search of three schooners, of which information was obtained from the pilot."

A letter from Lieutenant B. P. Priest, addressed to Captain Giffard, of Her Majesty's ship *Leopard*, dated off Kemi, June 9, 1854, states—

"Having taken possession of the town, I found the storehouses had been cleared out, and their contents conveyed across the barrier to the Swedish territory, and that the inhabitants had destroyed the barracks and public buildings. The purpose for which I had been despatched having been thus completed, I therefore returned on board, after being twenty hours in the boats. Every officer and man behaved to my satisfaction."

The last is from Lieutenant George Lloyd to Captain Giffard, of Her Majesty's ship *Leopard*, dated off Kemi, June 9—

"I proceeded yesterday, with the boats under my charge, up the Kemi River, on the banks of which, and on the adjacent islands, I burnt eighty stacks of timber (covering about two miles of ground), and the hull of a vessel of about eighty tons burden. A quantity of timber, not fit for ship-building, was spared at the request of the inhabitants."

Well, I should detain the House unnecessarily if I went more at large into these despatches, which, as I have already said, will be printed in the *Gazette* of to-morrow night. They will bear out my assertion, that the officers, to the best of their judgment, only sought articles that were contraband of war—that they only destroyed that which they found afloat and ashore, which they had positive orders to destroy—that according to the rules of war that destruction was not only justified, but it

*Sir J. Graham*

was their duty to effect it, and I must say that the position of British officers and seamen will be hard indeed if they are ordered to use their utmost efforts, both by sea and land, to inflict the greatest injury upon the enemy, and then, when they have done their duty, they are to be met in this manner. Admiral Plumridge and his squadron have in the most gallant and exemplary manner encountered peculiar difficulties. They entered a sea almost unknown and never traversed before by our ships of war. All the lights were extinguished—all the buoys taken up—they had no pilots and no charts. Up to the 1st of June the ice was not all broken up; and yet in the short space of three weeks, with all these difficulties to contend with, and frequently running the ships aground, and yet extricating them again, with the best seaman-like qualities, from their danger, with comparatively a very small loss of life indeed, and without having killed a single civilian, or committed any acts of plunder, not having the slightest regard for prize-money, and having still inflicted so much and such heavy injury upon the enemy, I say it will be hard indeed, if, at the commencement of a war involving immense difficulties and sacrifices, it shall be related to our gallant officers and seamen that the first notice taken of their conduct in the British House of Commons partook of the character of censure. I ask, Sir, why is this particular indulgence to be shown to this enemy? What has been the policy of the British Government with respect to him? What are we to understand to be the wishes and the feelings of the people of this country upon this point? We did commence this war by exercising peculiar forbearance, and Admiral Dundas, having it in his power to destroy the city of Odessa, yet spared that city—he attacked only the batteries. There has been something like censure even cast upon him for his forbearance, and I must say that I myself may now begin to partake of that feeling. A flag of truce was fired upon, and a British ship of war having by accident run ashore in a fog, immediately an immense multitude of Russian soldiers with batteries and red-hot shot bore down and fired upon that straddled vessel; so that I cannot say that any particular forbearance is now due to such an enemy. Whether they be Fins or whether they be Russians, we have offered them battle on the open sea and upon fair and equal terms, and they have declined it. They sink rocks in the channels, and

approaches to their harbours, for fear of our reaching them, and every way obstruct our access to them. Well, I say, if they will not meet us on the open sea, we must visit them in their own homes, and teach them that a war with England is not to be engaged in with impunity. I myself and my Colleagues also should certainly be much embarrassed if it is to be thought that this House discourages proceedings like those which are not of a marauding character, nor for the purpose of obtaining prize-money, nor without reference to the feelings and losses of unoffending persons, but where there has been an honest desire to make the enemy of this country feel the power of the force with which that enemy is now contending by fair and legitimate means. I, for one, am not prepared to check the pursuit of such a course; and I hope and believe that in so acting I and my Colleagues will not violate either the feeling or the sentiments of the people of England.

#### THE RECENT CHANGES IN THE MINISTRY.

LORD DUDLEY STUART said, the House having heard the statement of his right hon. Friend the Member for Manchester (Mr. Gibson), and the explanation of the First Lord of the Admiralty, he trusted he should now be permitted to call their attention to a subject with regard to which he had placed a notice on the books—namely, the recent changes in the Ministry. Before doing so he could not help expressing his regret that his right hon. Friend (Mr. M. Gibson) had by a somewhat unfair proceeding prevented him from introducing the subject earlier in the evening. The course which he (Lord D. Stuart) was now taking was entirely constitutional, and agreeable to Parliamentary practice. It was true that such discussions had generally been raised on an entire change of the Administration, and on this occasion it might be said, that there had only been partial changes in the Administration. The changes which had taken place, however, affected the position of six or seven Gentlemen holding high office under the Crown, of whom five or six were Cabinet Ministers. They had occasioned the addition of one Gentleman to the Cabinet; they had made it necessary that there should be two Parliamentary elections; they had conferred an office of great dignity and trust upon one Member of the Cabinet; they had placed another Mem-

ber of the Cabinet in a situation of less importance than that which he held before; they had created an office hitherto unknown to the Constitution; they had considerably altered the position of another Cabinet Minister; and they had deprived the Government altogether of the services of one right hon. Gentleman. He thought no person could have felt anything but pleasure at seeing that his noble Friend the leader of that House, had received a new mark of approbation and distinction from his Sovereign, and for his part he should have rejoiced if he had received a still greater mark of distinction by being called to the first post in Her Majesty's Councils, for he was satisfied that even his political opponents must feel that, from his distinguished career, great abilities, and high personal character, he would confer dignity upon any office, however exalted, rather than receive it. If the noble Lord who had lately held the office of President of the Council was contented in the prime of life and the vigour of age, and with the ability of which he had given proof, to surrender his place and to retire to what had been described as a sinecure office by the right hon. Gentleman who had just left it—if Lord Granville were satisfied to retire into the easy somnolent chair of the Chancellor of the Duchy of Lancaster—and thereby to elbow out the right hon. Gentleman the Member for Nottingham (Mr. Strutt)—all he could say was, that the country would wonder at his taking a post so little suited to his abilities, and he wished that in going to Lancaster he might only be on his way to a better place. He (Lord D. Stuart) must say, the House and the country had a right to expect some explanation why the right hon. Gentleman, who had always discharged his duties satisfactorily, had been treated with so little consideration and in a manner which was very discouraging to those who placed their services at the disposal of the Government, for he thought it would be admitted on all hands that the right hon. Member for Nottingham had received what in common parlance might be described as very scurvy treatment. An addition had been made to the Cabinet in the person of the right hon. Gentleman the Member for Morpeth (Sir G. Grey), a Gentleman of great administrative ability and of high character, but of whose appointment he must say that, looking back to his career, when he filled a subordinate place in the Colonial Office, it did not appear to him a

fortunate appointment. On the contrary, he saw in it an illustration of the truth of the saying, that, in the present Government, the parts had been so cast that all the square men were in the round holes, and all the round men were in the square holes. It was perfectly possible to feel confidence in men filling some situations, when that confidence could not be felt if they filled others, although they might be in the same Ministry; and that brought him to another point—the removal of the noble Duke (the Duke of Newcastle), who filled the office of Secretary of State for the Colonies, to make way for the right hon. Baronet (Sir G. Grey). He thought the creation of a Minister of War, when they considered what his duties and the attributes of his office were, would materially affect the position of the right hon. Gentleman who held the office of Secretary at War (Mr. S. Herbert), and who would not hereafter find himself in so independent or important a position as that which he now filled, and which was the head of a department. The explanations of the noble Lord the leader of the House were not very precise on that head. He did not say what changes were to be made, what offices were to be amalgamated, and what were to be left separate; but it seemed natural to imagine that, after the appointment of a new War Minister, the office of Secretary at War would not be one of so high a rank or confer so great dignity, and still more natural that it should be assimilated to that of the Secretary of the Admiralty, and that the appointment of a new Secretary of State should involve that of two Under Secretaries. This, at all events, was clear, that either the Secretary at War must be placed in a subordinate situation, or that there would be two heads of the War Department. The House would bear in mind that war was to be carried on by sea as well as by land, and if the new Minister of War was to have authority over the First Lord of the Admiralty, and to direct naval as well as military operations, which, for aught he knew, would be the case, then there would be seven Gentlemen holding high office under the Crown whose position would be affected by these changes. It was a remarkable fact, in connection with the Ministry of War, that matters had been so arranged by the Government—he supposed by Lord Aberdeen—that the whole conduct of the war was intrusted to the hands of Gentlemen belonging to one particular

*Lord D. Stuart*

section of the Cabinet, that section to which the Premier belonged himself. The Minister of War (the Duke of Newcastle), the Secretary at War, the right hon. Gentleman the Member for South Wiltshire (Mr. S. Herbert), and the right hon. Gentleman the First Lord of the Admiralty (Sir James Graham), were all Peelites, to say nothing of the right hon. Gentleman the Chancellor of the Exchequer, who had also, in financial matters, a good deal to do with the conduct of the war. But in all these changes that which was incomparably of the most importance, and which alone was necessary, was the appointment of this new Minister of War. The attention of the country had been fixed on the subject for a length of time; and he did not hesitate to say that that which had given to the subject its greatest interest was the confident expectation that when a Minister of War was created the office would be confided to no other than the noble Lord the Member for Tiverton (Viscount Palmerston). That had been the expectation, the hope, of this country and of all the friends of this country—that had been the dread of all the enemies of this country. If the noble Lord the leader of that House had come down and moved a new writ for Tiverton, and had informed the House that Viscount Palmerston had accepted the office of Secretary of State for the War Department, that announcement would have been received with loud cheers from that House, which would have echoed throughout the country, and, wafted from the shores of the Thames and of Great Britain, would have met with a hearty response at the Danube and the Vistula, in the Black Sea and the Baltic. In saying this, he did not mean for a moment to speak with any want of respect for his noble Friend the Duke of Newcastle. He hoped he should not be accused of that. He declared most sincerely that nothing could be further from his intention. He acknowledged with pleasure the ability, the industry, the zeal, the administrative talent, the courtesy of the noble Duke; but he did not think the noble Duke could feel that it would be at all derogatory to him, or could be in any degree offended or hurt, if such a man as the noble Lord the Secretary of State for the Home Department, who was so peculiarly fitted for this office by his great capacity, by his lengthened experience, by his unrivalled energy, by his more than European reputation, were preferred to himself. If he were

that the Duke of Newcastle, having been appointed to an office involving the duties of Colonial Secretary and those of War Minister also, had a right to make his election between those two offices, he altogether denied that position. The single consideration for the Government to look at was the good of the country, and if the Government—if the Prime Minister, on whom these things must ultimately depend—had allowed any personal considerations to prevent the best man, whoever he might be, from being appointed, the Government was responsible for having in that instance failed in its duty. To him (Lord D. Stuart) it seemed incredible that, when there was such a man in the country as the noble Lord (Viscount Palmerston), so admirably adapted for this particular office, with the duties of which he had had nineteen years' experience, partly during the progress of one of the most terrible wars in which this country had ever been engaged—it seemed to him, he said, incredible that, when the Government had the opportunity of appointing such a man to the office, they should have neglected to seize it. Did anybody tell him of the number of years that had passed over the noble Lord's head? He replied that the noble Lord was an extraordinary man; he united with the experience of age the vigour of youth. There were few men who at the same time of life had his physical strength, and very few, indeed, who had equal mental powers. He did not find that age was considered an objection in the case of naval and military commanders. Admiral Dundas was, he believed, pretty nearly contemporary with the noble Lord; Lord Raglan was not much younger, and Old Charley himself, though he might perhaps have the advantage of one or two years, was not half so active. And a man like that, with all his capacity, with all his reputation, with his political experience of half a century, was wasted in labours about common sewers, boards of health, and county rates, and the armies which he had to regulate were armies of policemen. It was very difficult to believe that people were in earnest when you did not see them take advantage of the means which were obviously the best for carrying into effect the purpose which they professed. The country doubted whether the Government were in earnest about this war—the country doubted not that the best man to direct it was the noble Lord the Secretary of State for the Home Department. Let the Government give the noble Lord the

direction of the war, and then friend and foe—all the world—would see that they were in earnest. Such an appointment would be better ten thousand times than all the recantations and retractations and explanations which had lately been made, and better than any professions of a desire to carry on the war with vigour. It would be better than the production of despatches, previously refused in that House, for personal vindication, better than any observations about disastrous treaties, intended, if possible, to retrieve the effect of disastrous speeches. Something must be done if the Government intended to re-acquire the confidence of that House and of the country. That confidence, long declining, was now pretty well lost. The proceedings of that House showed this. What measures had the Government been able to carry? What measures had they not been obliged either to postpone or to withdraw? What minorities they had been in! There would be a long list if he were to weary the House by going through it. The Government were not in the position that they ought to be. All that they could carry was taxes—taxes for the war; and the reason why they carried them was, that the people, being in earnest, would not refuse the means necessary to conduct the war. But neither the people nor the House were for half-and-half measures, and they did not want a half-and-half Ministry.

MR. MILNER GIBSON said, he by no means wished to disturb the harmony which usually existed below the gangway, and he therefore hastened to explain that it was quite inadvertently on his part that he had brought on his subject before that of his noble Friend.

MR. W. WILLIAMS said, he hoped that there was no intention on the part of the Government to proceed with the Estimates at that hour (ten minutes to twelve o'clock).

Committee of Supply was accordingly deferred till To-morrow.

#### STAMP ACTS.

Order for Committee read.  
House in Committee.

MR. J. WILSON moved Resolutions regulating the duties to be hereafter charged upon leases of lands, &c. for any term of years exceeding thirty-five; and providing, by the first schedule, that if the term shall not exceed 100 years, a duty of 3*l.* per 100*l.* shall be charged; and by the second schedule, that if the term shall exceed 100 years a duty of 6*l.* per cent shall be charged.

## Motion made, and Question proposed—

“That in lieu of existing Stamp Duties the following Duties be charged:—

Lease or Tack of any lands, tenements, hereditaments, or heritable subjects, for any term of years exceeding thirty-five, at a yearly rent, with or without any sum of money by way of fine, premium, or grassum paid for the same, the following Duties in respect of such yearly rent:—

				DUTIES.	
				If the term shall not exceed 100 years.	If the term shall exceed 100 years.
				£ s. d.	£ s. d.
Where the yearly rent shall not exceed £5 . . . . .				0 3 0	0 6 0
And where the same shall exceed £5 and not exceed £10 . . . . .				0 6 0	0 12 0
“ “ 10 “ “ . . . . .	15			0 9 0	0 18 0
“ “ 15 “ “ . . . . .	20			0 12 0	1 4 0
“ “ 20 “ “ . . . . .	25			0 15 0	1 10 0
“ “ 25 “ “ . . . . .	50			1 10 0	3 0 0
“ “ 50 “ “ . . . . .	75			2 5 0	4 10 0
“ “ 75 “ “ . . . . .	100			3 0 0	6 0 0
And where the same shall exceed £100, then for every £50, and also for any fractional part of £50 . . . . .				1 10 0	3 0 0

Mr. HADFIELD said, he must complain of the perpetual changes which it was found necessary to make in these Acts, which, he thought, ought to be more carefully drawn in the first instance. Notwithstanding the short time which had elapsed since the last Act, it was now found necessary to amend it. He objected to the Amendment now proposed, for he could see no reason why so great a difference should be made in leases for 100 years, and in those over that period. The principle was bad, and would only lead to mischievous results in practice. He should move, therefore, to omit the second column of the hon. Member's Motion, and to make the stamp duties on leases irrespective of their term.

Amendment proposed, to leave out the words “if the term shall not exceed 100 years.”

Question proposed, “That the words proposed to be left out stand part of the proposed Resolution.”

VISCOUNT GALWAY said, he objected to a discussion being taken at that late hour on this important point.

Mr. J. WILSON said, he would remind the Committee that this was but a preliminary Resolution, necessary in order to enable the Government to bring in a Bill, and he would therefore suggest to his hon. Friend to allow it to pass, and to make his objection in Committee upon the Bill. If his hon. Friend would assent to this, there would be no need to discuss the principle of the proposed alteration at that time. The question would then have been before the House for some time.

Mr. HADFIELD said, he would rather take the opinion of the Committee at once.

SIR HENRY WILLOUGHBY said, he thought that some explanation of the Resolution should be given by the Government at the present stage of the measure.

THE CHANCELLOR OF THE EXCHEQUER said, the change was proposed in order to meet, if possible, the views of the hon. Member for Sheffield himself, though it met with his opposition. The hon. Gentleman (Mr. Hadfield) had urged that there was a strange disproportion between a certain portion of their stamp duties and another portion about which he concerned himself, namely, conveyances subject to a chief rent, and he argued that there was a great discrepancy between the yearly annual rate of duty that was levied on leases for 10,000 years, and on conveyances subject to a chief rent which was assimilated to the duty upon conveyances in fee. In a strict point of view the system established by the measure of last year was perfectly defensible. In point of fact, a conveyance at a chief rent was a conveyance out and out; but the payment of the price was thrown into the form of a perpetual annuity, instead of having a sum paid in gross. There was no doubt, however, that in some of its features it approximated to the character of a leasehold, and he wished to place them in as fair a relative position as was possible. Taking the rate of duty upon conveyances in fee at  $\frac{1}{2}$  per cent on the capital of the purchase money, they had adjusted leasehold duties, taking twenty-five years' purchase,

and likewise conveyances, subject to a chief rent in proportion and relation to the duty upon conveyances in fee.

Mr. BRIGHT said, he did not think that the right hon. Gentleman had much mended his original proposition. There were three descriptions of property affected. Annual rents, under 100 years and above thirty-five years, annual rents above 100 years, and leases in perpetuity. The first the right hon. Gentleman increased six times, the second twelve times, and the last he reduced one-half. Would it not have been fairer to have had an *ad valorem* stamp duty on all. The plan of the right hon. Gentleman only made the inconsistencies of the duty more glaring than they were before. He contended that the annual rent was the true test of value, and that upon that an *ad valorem* duty should be levied.

Mr. HENLEY said, the House had been sitting since mid-day, and it was now half-past twelve o'clock at night. He therefore proposed that the Chairman should report progress.

House resumed.

Committee report progress.

#### USURY LAWS REPEAL BILL.

THE CHANCELLOR OF THE EXCHEQUER said, he would now move for leave to bring in a Bill for the repeal of the Usury Laws. At that late hour (one o'clock) he could not ask the attention of the House, but would fully state the objects of the measure on the second reading.

Motion made and Question proposed, "That leave be given to bring in a Bill for the repeal of the Usury Laws."

Mr. SPOONER said, he could not assent to that course. He did not think that a Bill of such importance should be introduced at that hour, and without any explanation of its provisions.

Mr. BROTHERTON moved the adjournment of the House.

Motion made, and Question put, "That this House do now adjourn."

The House *divided*:—Ayes 18; Noes 49: Majority 31.

Question again proposed.

COLONEL DUNNE, moved that the debate be now adjourned.

THE CHANCELLOR OF THE EXCHEQUER said, he must complain that the course taken by the hon. and gallant Gentleman was an unusual one.

Mr. SPOONER said, he objected to

the Motion because the Bill was attempted to be brought in *sub silentio*.

Motion made, and Question put, "That the debate be now adjourned."

The House *divided*:—Ayes 18; Noes 47: Majority 29.

THE CHANCELLOR OF THE EXCHEQUER said, he would now briefly explain the object of this Bill, which bore a rather too ambitious title, for, in point of fact, the usury laws were already repealed to a great extent, and now only a mere remnant was left of what they were in former times. Three hundred years ago an Act of Parliament existed in this country limiting the rate of interest on money to 10 per cent; in the reign of James I. another Act was passed limiting it to 8 per cent; in the reign of Charles II. another Act was passed limiting it to 6 per cent, and in the reign of Anne the present law was passed, limiting it to 5 per cent. It would seem, however, as if the framers of that law had contemplated that the State would perpetually break the law, but be that as it might, if they asked themselves who had been the greatest offender against the law, the answer must obviously be the State. [An Hon. Member: No, the Chancellor of the Exchequer.] Yes, the Chancellor of the Exchequer, and not only the Chancellor of the Exchequer, but his backers also, and those who had supported him in passing resolutions to borrow money at usurious rates of interest. The Act, however, of Anne appeared to contemplate that the State would require to evade it, since it expressly provided that this limitation of the rate of interest was not to operate in any way that would be injurious to Parliamentary securities, but the superstition which formerly prevailed on the subject, and which was partly Judaical and partly Mahomedan, had long ago subsided, and step by step the usury laws had almost been swept away. The law that he now proposed to repeal was the law which prohibited the loan of money at a greater rate of interest than 5 per cent, and this change would largely benefit two classes of securities, namely, mortgages upon land in Scotland, which were liable to be paid up at call; and railway debentures in England, which partook very much of the character of mortgages on land. The system of fixing the rate of interest on money in Scotland differed very materially to that of England, and the consequence was that in a time of pressure mortgagors found a

difficulty in obtaining money at the legal rate, while with regard to railway debentures there were periods when even railway companies, with first class resources, could not borrow money under 5 per cent, so it was clear that a railway company of the second-rate kind could not at such times borrow money at all at that rate. Now this Bill would meet both these cases; it would obviate the difficulty of the Scotch mortgagor and the necessity which some railway companies were sometimes under of issuing their debentures considerably below par. He believed that if they were to rip up the history of many of our railway companies, it would be found that the usury laws had driven them to constant evasions of the law. It was proposed therefore to give them the most perfect freedom in the money market. They had already recognised the principle of freedom of trade as applicable to money, and let them not keep up a fragment, a mere shadow of the law, that had the effect of driving men to all kinds of shifts and tricks to evade it. Let the landed proprietor and the railway proprietor go into the market free and unshackled like other people, and then would be completed entire and unrestricted freedom of trade in all that related to the borrowing and lending of money.

Main Question put, and *agreed to*; Bill ordered to be brought in by the Chancellor of the Exchequer and Mr. Wilson.

Bill read 1<sup>o</sup>.

The House adjourned at a quarter before Two o'clock.

## HOUSE OF LORDS,

*Friday, June 30, 1854.*

MINUTES.] PUBLIC BILLS.—1<sup>a</sup> Oxford University; Dublin Carriage; Bankruptcy.

2<sup>a</sup> Bleaching, &c., Works.

Reported—Gaming-Houses.

3<sup>a</sup> Legislative Council (Canada).

## PUBLIC REVENUE AND CONSOLIDATED FUND CHARGES BILL—

### THE MASTERS OF THE COURTS OF COMMON LAW—QUESTION.

LORD CAMPBELL wished to put a question to his noble and learned Friend on the woolsack upon a subject of some importance. He was informed on very good authority that there was a proposal on the part of the Government, which was to be carried into effect by the Consolidated Fund Charges Bill, that certain officers who were employed in the administra-

tion of justice, and who had high judicial functions assigned to them—he meant the Masters of the Courts of Common Law—instead of having their annual salaries appointed and secured by Act of Parliament, should be placed upon the annual Votes of the House of Commons—that their salaries should be included among those Votes by the Government, and be subject to variations, from time to time, according to the prevailing notion of that House with respect to liberality or economy. Now, so far as the present holders of those offices were concerned—considering the tenure by which they held their appointments—a clause might as well be introduced into the Bill to deprive their Lordships of the estates which they had inherited from their ancestors; and he could hardly suppose that anything so atrocious—for so he would venture to describe a provision of that kind—could be in contemplation. He was told, however, that it was in contemplation, with respect to all future appointments, that whenever the present incumbents should resign or die, their successors should be placed upon this footing. He thought that this would be a most imprudent course, and entirely opposed to the principles which had hitherto guided both Houses of Parliament with respect to the payment of judicial officers. It was proposed that these persons, holding judicial offices, should depend on the proposal of the Government, year by year, and on the manner in which that proposal might be received by the House of Commons. These offices were now filled by men of great learning, of great integrity, and of high honour; but he would venture to say that if this arrangement should be carried out, no man, who could earn his daily bread in any other way, would deign to accept them. At present, although the remuneration was extremely moderate, barristers and solicitors of large practice, of great learning, and of great experience, were willing to accept them, because they knew that the remuneration, although small, was certain. But if they could not know but that in the following session of Parliament, instead of receiving 1,000*l.* a year, their salaries might be reduced to 500*l.* or 50*l.*, they would not accept office, and it would be impossible to find men of adequate learning or adequate character for the discharge of the important duties which devolved upon them. He was the more surprised to be told that this was in contemplation, because a noble

*The Chancellor of the Exchequer*

Friend of his, whom he did not now see in his place (the Marquess of Clanricarde), having put a question the other night with respect to the Irish officers, he had understood his noble and learned Friend to say, that it was not in the contemplation of the Government to touch those officers, because, being in the nature of judicial officers, they ought to have fixed salaries, independent of the Government, and during their incumbencies independent of Parliament. Now, however, they were told that the Masters of the Courts of Common Law in England were to be degraded from their present position of holding their offices at fixed salaries, during good behaviour, to be placed on an entirely new footing, and to be dependent on an annual Vote of the House of Commons. He thought that such a course would be very reprehensible. It might be a very sound principle to proceed on, that the whole of the public revenue should be paid into the Exchequer, and that any expenses or allowances for collecting it should be paid out of the Exchequer; but it had been held by successive Governments that the administration of justice was not a fit subject for taxation, and that the fees which were now imposed ought to go, and only to go, to pay the expenses of the officers of the respective courts; and although, if there was any surplus, it was paid into the Consolidated Fund, it was only for the purpose of indemnifying that fund, which was liable for any deficiency. He denied, therefore, that these fees were obtained by way of revenue, or that the officers of the courts of justice were at all like officers of Customs or Excise, or came at all within the scope of the measure. He trusted, therefore, that his noble and learned Friend, who took so warm an interest in all that concerned the administration of justice, would be able to assure him that no such thing was intended.

THE LORD CHANCELLOR said, that, with respect to the present holders of offices, there was an express exception introduced into the Bill to prevent all possible controversy, and to make it perfectly clear that the Bill did not apply to them, nor affect their vested interests. With respect to the future holders of office, the way in which the Masters of the Courts of Common Law were at present paid was by fees, which were collected, and any surplus was paid into the Exchequer, while any deficiency was made good from the Consolidated Fund. He had been asked

a question the other night, by the noble Marquess (the Marquess of Clanricarde), with respect to the Masters of the Court of Chancery in Ireland. It never was intended to include those officers in the Bill, and he so answered. With respect to the Masters of the Courts of Common Law in England and Ireland, the provision was, that they should be paid by Votes of Parliament, and not out of the Consolidated Fund; but it was not intended to include in that provision any officers exercising a judicial function.

LORD CAMPBELL said, the Masters of the superior courts of Common Law did exercise judicial functions; and if the principle laid down by his noble and learned Friend was that upon which this Bill had been framed, they ought most undoubtedly to be excepted from its operation. But he was not at all satisfied with the statement of his noble and learned Friend, that there was a clause excepting the present holders of those offices; because he was perfectly satisfied that if they placed those functionaries upon the chances of such annual provision as might be made for them from year to year, at the proposal of the Government by a Vote of the House of Commons, they would not have men of such distinction, and learning, and character, as they had now.

LORD MONTEAGLE said, the principle involved was one of great importance, and one to which their Lordships' attention might be very properly directed, although the Bill which had been alluded to was not yet before the House. The Bill contained a schedule, which had been so carefully prepared that not only were the salaries of the Masters in Chancery and of the other judicial persons to whom his noble and learned Friend had alluded included in it, and made dependent, for all time to come, upon the annual Vote of Parliament, but even the salary of the Master of the Rolls, himself one of the highest judicial functionaries in the land, was put upon the same footing. This was a proposal so extraordinary, that he could only account for it as having been a mistake. It would behove their Lordships to look very carefully at the schedule of this Bill, when it should be brought before them, and to consider seriously the principle upon which they ought to act. If they were to preserve any remains of fees in connection with the administration of justice, there was no reason why they should continue to do an objectionable

thing in the most objectionable way. He trusted that they should not find put into this schedule any one officer of a judicial character. If it were otherwise, it would not be enough to say that they did not affect existing interests, because the principle would be permanent—and the principle was most objectionable, which made judicial officers dependent on the annual Vote of Parliament.

LORD BROUGHAM entirely agreed with his noble Friends, and would never cease to condemn the impropriety of any judicial or quasi-judicial functionary being dependent upon fees, or upon the Executive Government, or even upon the Executive Government together with the Commons House of Parliament. It went against their independence, and struck at the very root of our judicial system, which required that those who administered the law should be entirely independent—independent of the Crown upon the one hand, and of the House of Commons and the will of the people on the other. He knew it might be an unpopular doctrine that any class of public officers should be independent of the people; but it was for the benefit of the people themselves that the independence of the Judges should be maintained; and even with respect to officers whose functions were not judicial, but merely ministerial—he thought they ought to be so paid as that there should be a certainty with respect to their salaries, because it was of the greatest moment that such offices should be filled by competent and respectable persons; and they could not get such persons if their salaries were subjected to an annual Vote of Parliament.

#### DIVORCE AND MATRIMONIAL CAUSES BILL.

Order of the Day for the House to be put into Committee (on Re-commitment) read.

*Moved*, That the House do now resolve itself into Committee.

LORD REDESDALE said, that either on the report or third reading of the Bill he should move the omission of the clauses relating to divorce *a vinculo*, as he wished that question to be debated separately from this Bill, which treated the subject as if founding a new court for the administration of the existing law, whereas divorce *a vinculo* never was the law of this country from the earliest period down to the present day. He hoped their Lordships would solemnly consider that, al-

*Lord Monteaule*

though under the existing law the morals of the country with regard to the sanctity of the marriage tie had been spoken of as an example for other countries, they were about to introduce a complete change, and make divorce, for the first time, a common remedy which any one could seek and obtain. At the present moment divorces *a vinculo* were treated as exceptional cases, two or three only occurring in each year, and were in no way recognised by the law of the land.

LORD BROUGHAM said, he would be perfectly prepared to discuss the question raised by his noble Friend in any shape, or at any time he might think most convenient to introduce the discussion. It might be their course hitherto had been wrong—they might be bound to retrace their steps, or to advance in another direction, and make some modifications in the present practice. At all events, he hoped his noble Friend would consider, before he finally made up his mind on the subject, that the present system could not possibly be continued, unless they were prepared to say that it should be competent only to one class of the community to obtain the remedy in these cases—namely, that class which could afford to pay for it.

LORD REDESDALE begged to remind the noble and learned Lord that he had always said he thought that the remedy ought to be got rid of altogether. It was not the law of the land. An exceptional law was made in each case to get rid of the existing law, leaving the law as it stood, and under which this country had prospered in morality for thousands of years.

LORD CAMPBELL hoped that adultery on the part of the wife would be considered ground for dissolving marriage, as was accordant with reason and Scripture.

LORD ST. LEONARDS said, that this question was one of too great importance to be disposed of in a merely cursory debate. He had given notice of his intention to move in the Committee on this Bill certain Amendments; but before their Lordships went into Committee, he proposed to state what his views were of the machinery of the Bill. Their Lordships were aware that it was deemed necessary that there should be an alteration with regard to the Ecclesiastical Courts generally; and that the question of testamentary jurisdiction was referred to one Commission, divorce causes to another, whilst ecclesiastical discipline remained for de-

cision. The Commissioners who considered the great question of testamentary jurisdiction reported that, in their opinion, a new court should be established for all testamentary matters. His noble and learned Friend the Lord Chancellor so far departed from that Report as to propose in the Bill which had gone down to the other House to transfer to the Court of Chancery the whole testamentary jurisdiction. Considering the importance of those questions being taken before one court, with complete jurisdiction, instead of before several Judges, he concurred in that view; but he should not have concurred if he had known that it was proposed to transfer to the Court of Chancery divorce causes also. The Commissioners to whom was submitted the question of divorce, in their Report expressed an opinion in favour of one court, but that not the Court of Chancery; yet in this matter also his noble and learned Friend had departed from the recommendation of the Commissioners. He did not find fault with him for not following exactly the Reports of the several Commissioners, but their resolutions certainly must have great weight, and be necessarily received with great respect. His noble and learned Friend, however, proposed to transfer all causes matrimonial, except divorce *a vinculo*, to the Court of Chancery bodily, and to constitute a new court, consisting of the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, and three persons appointed by the Crown, for the consideration of divorces *a vinculo*. He agreed that divorces *a vinculo* required some higher authority than ordinary matrimonial causes; but he ventured to suggest that, instead of creating a new court, a simple clause should be inserted, directing that those cases should be heard by the Lord Chancellor in his own court, with the assistance, pointed out by the Commissioners, of a common-law Judge, and an Ecclesiastical Court Judge; while other branches of the Court of Chancery should administer the law in all other matrimonial causes. He hoped, if his noble and learned Friend persisted in transferring these causes to the Court of Chancery, he would adopt that suggestion. But, for himself, he objected to their going to the Court of Chancery at all. There was a tendency, inevitable, perhaps, in many cases—and if not inevitable, not avoided—to delay, of which the suitors deeply complained; but if testamentary jurisdiction and jurisdiction in cases of divorce were to be transferred to the Court of Chancery, the

machinery of that Court would become so clogged as absolutely to render it powerless, deprive the public of the benefits of recent alterations, and render nearly nugatory the advantages which had been gained at so great a price and after so much trouble. It was quite impossible that Court, though charged with deciding rights to a greater amount of property than all the other courts put together, could continue to exercise its functions, if from day to day, and from hour to hour, it was to be burdened with new labours and onerous jurisdictions. The Court of Chancery had never decided questions of divorce. It had nothing to do with the subject. His noble and learned Friend would say that it had jurisdiction over children. Nothing could be more distinct than the whole subject of marriage and the jurisdiction over children, which amounted only to jurisdiction over children where property was involved. If a new court were created, that court could more properly take the jurisdiction of the Court of Chancery as to the care of infants than the Court of Chancery could take jurisdiction over matrimonial causes. Jurisdiction over children was not often exercised, and it afforded no reason why the great business of divorce should be transferred to the Court of Chancery. His noble and learned Friend seemed to think the business would be of a trifling nature, and would not greatly add to the labours of the Court of Chancery. He (Lord St. Leonards) believed, on the contrary, that there were no cases which occupied more time, or were more expensive, than those which by this Bill would be transferred; and he felt perfectly confident that, if testamentary jurisdiction and matrimonial causes were both transferred to the Court of Chancery, a weight of labour would be added to the duties of that Court which it would not be able to discharge. The noble and learned Lord might be prepared to say that if such should prove to be the case, they could create a new Vice Chancellor. He wholly objected to the appointment of a new Vice Chancellor, because it would be the same thing as establishing a new court, which must have a separate bar, a separate place of sitting, and separate officers to attend it, and the addition of so many Vice Chancellors to the Court of Chancery would lead to serious inconvenience. He had already called the attention of the noble Earl at the head of Her Majesty's Government to the advantage of keeping together

a bar for matrimonial causes and testamentary jurisdiction. In the Ecclesiastical Courts the gentlemen who now practised there were disciplined and learned in international law—men of independence, honour, and high character, whose opinions not only guided the Government in the most difficult cases, but carried a weight with them in Europe; for foreign Governments were satisfied when they found that this Government was acting not merely upon its own will and feelings, but was guided by the learning and opinions of persons who were amenable to the profession and the country for the opinions which they gave. If the whole of these matters were transferred to the Court of Chancery, no such advice or assistance could in future be obtained. The question of ecclesiastical discipline had not yet been touched, although in no respect did these courts require more remodelling. Nothing, for example, could be more disgraceful to a great country like this than to throw upon the Bishops, whose incomes were limited and not thought too much, either the odium of not prosecuting in cases where it was their duty to prosecute, or the risk of having to pay all the expenses. Those were matters which must meet with relief, and he supposed next Session his noble and learned Friend would introduce a special Bill, in order to provide for that jurisdiction. It was not with the view of obstructing this measure, but with the view of rendering it effective, that he stated his opinion that the whole subject of the Ecclesiastical Courts, including testamentary jurisdiction, matrimonial causes, and ecclesiastical discipline, ought to be considered together, and he strongly inclined to the belief that a separate court must still exist, which would admit of great improvements over those which now existed, for the management of all these difficult matters. A Bill of last Session put an end to the fashion of treating the funds of the Court of Chancery as open funds, and appropriated all the surplus funds to their proper object—the relief of the suitors as much as possible from law taxes. In the Testamentary Jurisdiction Bill his noble and learned Friend took the proper course, and created a particular fund into which fees were to be paid, and out of which were to be paid the expenses and compensations under that Bill. In this Bill a different course was adopted, and all compensations to officers were thrown upon the suitors' fee fund of the Court of Chancery. Nothing could be more unjust, or more in contravention

*Lord St. Leonards*

of the Act of last Session, and therefore upon that point he should certainly divide the House. He had repeatedly asked what would be the amount of compensation under the Testamentary Jurisdiction Bill, but he could never get any answer. If they might judge from the past, it would be an amount so enormous as very much to alarm the Chancellor of the Exchequer. There was no account given of the compensation under this Bill; but, be it great or small, he should object to its being thrown on the suitors' fund as a matter of principle. He sincerely wished to see a new jurisdiction created for all these matters. He should, therefore, cordially concur in every measure for creating a perfect tribunal to which all these subjects could be referred, giving to that tribunal all such powers as were necessary; and he trusted he should not be supposed to be offering any obstruction by drawing the attention of the House and of the country to what he considered to be a very important question—the constitution of the court to which all those cases were to be referred.

THE LORD CHANCELLOR said, it was not from any disrespect to the noble and learned Lord that he must express his intention not to occupy time by discussing the clauses of this Bill before they went into Committee. The noble and learned Lord made the same objection as he had just urged upon the second reading of the Bill. He made some trifling alterations, but very trifling indeed, because he did not think the noble and learned Lord's suggestions would have effected any improvement. Having done that, the Bill had now arrived at the stage when their Lordships were to go into Committee upon it; and he thought it would be most inconvenient for him to answer now the observations of his noble and learned Friend, as it would probably give rise to a second discussion when the clauses came to be considered. The noble and learned Lord objected to the constitution of the court and to the amount of compensation. With regard to compensation, as he had not alluded to it before, he might say his only reason for charging it on the suitors' fund was that he apprehended that the compensation under this Bill would be extremely small indeed. No courts were abolished by this measure; the jurisdiction in matrimonial causes now existing was to cease, and compensation would only be in respect of what the officers derived from those causes. They were very few. The

great bulk of these causes were here in London, and they were only eleven a year. In the country they were hardly ever heard of; but in order to do justice they must provide compensation. He thought, therefore, that, in such a case, it was not fit to create complicated machinery, and therefore proposed to pay the compensation out of the suitors' fund. The Lord Chancellor would impose such fees as seemed to him reasonable to meet the expenses incurred in these causes, and the question of compensation. Under the Testamentary Jurisdiction Bill there was a great extent of machinery, and a new head of accounts in the Accountant General's Office was necessary for payment of salaries and fees; but that was entirely unnecessary in the case of this Bill, where both fees and compensation were extremely small. With regard to the constitution of the court, he could only repeat what he had stated before, that the Divorce Commissioners recommended the constitution of a new court, to consist of a Vice Chancellor, a common law Judge, and an ecclesiastical Judge. It appeared to him, that for the transaction of ordinary matrimonial business that was a very inconvenient mode of constituting a court, for he thought such business ought to be referred to a court that was constantly sitting. The question was, to what court should that business be confided? The Divorce Commissioners said that the Court of Chancery would be eminently adapted for that purpose were it not that they thought a single Judge was not competent to decide such difficult cases. So far, however, as the ordinary jurisdiction was concerned, he did not see why a single Judge in the Court of Chancery should not be as able to transact such business as a single Judge in the existing Ecclesiastical Courts. In his opinion, for all ordinary purposes, a single Judge would be even better than what had been called a many-headed tribunal. But he thought the same observation did not apply to the new jurisdiction which was proposed by this Bill, namely, the jurisdiction which was now vested exclusively in the House of Lords, to grant by means of private Bills divorces *a vinculo matrimonii*. He thought it would not be in conformity with the feelings and opinions of this country to transfer that jurisdiction at once to a tribunal consisting of a single Judge, or to any but a tribunal which should command, as far as possible, all the influence which the judicature of the country could supply.

For that reason he thought it better that the tribunal to decide upon divorces *a vinculo matrimonii* should be a distinct and separate court, consisting of the highest legal functionaries in the land. He proposed, therefore, that the tribunal in question should be composed of the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, and two other persons to be nominated by the Crown. The Lord Chief Justice, however, objected that the duties of his office were such that it would very often be inconvenient for him to attend the new court; and therefore it was proposed that three other persons should be appointed, of whom one should always be a common law Judge. It appeared to him that by that means they secured that the public would be satisfied with the tribunal. He remembered it was stated, as an objection upon a former occasion, that he proposed a tribunal having jurisdiction over nothing but divorces *a vinculo matrimonii*, but who, if they refused such a divorce, could not give any minor relief. Certainly not, because there was no other minor relief which could be given, inasmuch as the reasons for refusing a divorce *a vinculo matrimonii* would always be reasons for refusing a divorce *a mensâ et thoro*, except in the extremely improbable case of a wife suing for a divorce on account of the incestuous adultery of the husband, and proving that the husband had been guilty of adultery, but not with the aggravation of incest. In such a case the wife might be entitled to a divorce *a mensâ et thoro*, but not to a divorce *a vinculo*. That was a case, however, which would not occur oftener than once in a century, and the objection founded upon it was one in theory only, and not one that would ever be practically realised. It appeared to him, therefore, that the tribunal created by this Bill was the best that could be constituted. The noble and learned Lord who spoke last suggested what was, in truth, exactly the same thing. He was prepared to give the jurisdiction to the Court of Chancery, but he would impose upon the Lord Chancellor the necessity of hearing the causes alone, assisted by the Lord Chief Justice or some other legal functionary. If, however, the Lord Chief Justice and that other functionary were to be merely the assessors of the Lord Chancellor, the proposed tribunal would be highly objectionable, and he must protest against it. [Lord St. LEONARDS: That is not what I mean.] Then, he asked, what was it but a new court? If

the Lord Chancellor was to sit with the Lord Chief Justice, or some other legal functionary, that, to all intents and purposes, would be a new tribunal. He did not propose in the Bill to have a single new officer, or to have a single shilling of payment. Not only, therefore, must there be a new tribunal, but in every respect it must differ from the ordinary functions of the Court of Chancery. There must be an entirely new code of procedure. Evidence was to be taken *voir dire*, and there must be a mode laid down for serving parties out of the country. There must also be an appeal, and that appeal must be limited in a very different way from that in which ordinary appeals from the Court of Chancery were limited. He proposed in the Bill that an appeal should be made in the course of three months after the decision of the Court. The constitution of the new tribunal, from the beginning to the end, was totally different from anything else, and its functions were in no way similar to those which the Court of Chancery could exercise. It appeared to him, upon the whole, that the Bill, as at present framed, placed the matter upon a satisfactory footing, and he could not help thinking that it would be regarded in the same light by their Lordships when they had considered it in Committee.

LORD CAMPBELL said, that, although he did not approve of the Bill in its present shape, he did not propose to offer any Amendment to it, nor did he concur in the Amendment which his noble and learned Friend (Lord St. Leonards) had suggested; but the advantage of getting rid of the scandalous proceeding of passing Bills of divorce by the two Houses of Parliament, and of getting rid also of the ecclesiastical jurisdiction of the multiplied courts all over England in matrimonial causes, would so far transcend any injurious effect which the measure, as it now stood, would have, that he was ready to pay a very considerable price for the attainment of that benefit. He thought the machinery of the Bill was defective, and therefore he could not approve it; but let them get rid of the existing system of Parliamentary divorces *a vinculo matrimonii*, and of the present system of matrimonial causes being carried to these multiplied ecclesiastical jurisdictions, and there would be not only a great immediate improvement, but what would lead before long to a still greater improvement. He entirely approved the principle upon which the Bill was founded, that

*The Lord Chancellor*

adultery on the part of the wife should be a sufficient ground for dissolving the marriage if the conduct of the husband had been unexceptionable; and he thought his noble and learned Friend had wisely abstained from proposing to do what was now done in Scotland and some other countries—give a latitude to the wife to have the marriage dissolved on account of the adultery of the husband. Reprehensible as the conduct of the husband must be if he was guilty of adultery, still in most cases it might be condoned; and it did not necessarily and inevitably render the marriage tie no longer tolerable to the wife. Unless, therefore, the adultery of the husband was accompanied with such aggravations as were specified in the Bill—incest, bigamy, or other offences to which he would not now particularly allude—he thought the wife ought not to be entitled to a divorce *a vinculo*, because she might still pardon what had happened and again live happily with her husband. This, then, was a principle of the Bill which he highly approved, and he trusted it would pass into law. Still he could not approve the machinery of the Bill. He concurred in the recommendation of the Commission, to which he had had the honour to belong, and which was composed of gentlemen of the highest eminence, that a tribunal should be created for this express purpose, in which divorces *a vinculo* and all matrimonial causes should be decided. He could not understand the observation of the noble and learned Lord on the woolsack, that it was desirable to have one tribunal for divorces *a vinculo*, and another for divorces *a mensâ et thoro*. There were more cases than his noble and learned Friend contemplated, in which, having made an attempt to obtain a divorce *a vinculo*, the party seeking relief might be entitled, upon the evidence given, to a divorce *a mensâ et thoro*. For example, it might turn out that the husband had been guilty of great cruelty, although the more heinous offence of aggravated adultery might not be proved, and that on that account the wife should be entitled to a divorce *a mensâ et thoro*. Under such circumstances, it would be necessary for her, under the present Bill, having wasted much time, and perhaps the means of herself and friends, in vainly attempting to obtain a divorce *a vinculo*, to begin *de novo* in the Court of Chancery seeking a divorce *a mensâ et thoro*. He trusted, therefore, that if the matrimonial jurisdiction of

the Ecclesiastical Courts was to be transferred to the Court of Chancery at all, it would at least be confided to only one branch of that Court. The investigation and decision of such causes would require much study and extensive legal knowledge on the part of the Judges. Every Chancery Judge did not possess such knowledge as was now possessed by Dr. Lushington, the President of the Consistorial Court in London, or by Sir Herbert Jenner Fust, the head of the Court of Arches, and yet he did not hesitate to say that a Judge who did not possess that knowledge would not be competent to give a satisfactory decision in matrimonial causes. For that reason, in addition to what his noble and learned Friend opposite had said with respect to the overloading of the Court of Chancery, he could not approve some of the provisions of the present Bill. At the same time, he could not vote for the Amendments proposed by his noble and learned Friend, and he was prepared to support the Bill, even in its present shape, rather than consent to allow the law to remain in its existing state.

THE EARL OF CLANCARTY entertained serious objections to the principle of the Bill, and hoped that his noble Friend (Lord Redesdale) would be able to effect some improvement in it before it passed into law. He thought the necessity for such a measure had not been proved, and although it was impossible to gainsay the proposition, that there should be the same law for the poor as for the rich, and that the present system of passing Acts of Parliament, involving a large outlay and great delay in each particular case, should be changed, he contended that a more serious question was involved in this Bill, namely, whether marriage was to be regarded as a civil contract, and therefore voidable at pleasure, or as a divine ordinance, and therefore indissoluble. He believed that the passing of the Bill would be injurious to the morality of the country by increasing the number of divorces that would be applied for, and he earnestly hoped that if the Bill passed, an alteration would at any rate be made in that clause which assigned what should be a sufficient ground for the granting of a divorce. The case of Ireland seemed to have been overlooked, for in examining the Bill he could not find that any provision had been made for the trial of divorce cases in that country.

LORD BEAUMONT said, that the noble and learned Lord (Lord Campbell) had so

completely expressed his (Lord Beaumont's) opinions on the subject that he felt it unnecessary to do more than state his concurrence in all that had fallen from the noble and learned Lord. The defect of the measure was, that it did not embody the recommendation of the Commissioners to refer all matters matrimonial to one court. It, however, was no slight advantage to get rid of the disgusting and demoralising examinations in divorce cases at the bar of that House.

LORD BROUGHAM, having had the honour to preside over a Committee to which this important subject was referred some years ago, begged to express his great gratification at the prospect of the present Bill being passed into a law. The Committee over which he presided, and which comprised a right rev. Prelate, as well as lay and law Lords, came to the unanimous opinion that the course of procedure which had hitherto prevailed in respect to matrimonial cases should be abolished, and a regular court appointed for determining all these matters. Among other reasons which the Committee assigned in support of their recommendation was the triple procedure formerly necessary to obtain a divorce—namely, first, the action at common law against one party, then the proceeding in the ecclesiastical court against another, and, last, the Bill of divorce in their Lordships' House. The public was under a great obligation to the Commissioners for their able and learned Report, and, he might add, the Commissioners themselves were under great obligation to their learned and able secretary for his valuable and gratuitous services.

On Question, *agreed to*; House in Committee accordingly.

Amendments made.

On Clause 38,

THE BISHOP OF OXFORD moved the insertion of words which would have the effect of preventing the guilty wife marrying again after her divorce, during the lifetime of her husband, as was proposed by the present Bill. It had always been the law of the Church that the woman could not marry again, and this prohibition was very properly founded on the words of our Lord, "Whosoever marrieth her who is put away, committeth adultery." It would be exceedingly improper, and tend greatly to the encouragement of vice, if during the husband's lifetime the wife should not still remain under the ban of being prevented from marrying again. If the sin

of the wife were to be allowed to set her free, the sanctity of marriage, which had hitherto been one of the special blessings of this country, would be threatened and destroyed. He trusted most earnestly that their Lordships would not sanction this innovation upon the old law of the Church and of the land.

LORD BEAUMONT thought that by making it illegal for the woman to marry again they would prevent, in many instances, the only reparation which it was possible for the not less guilty party to make.

Their Lordships *divided*:—Content 10; Not Content 25: Majority 15.

#### List of the CONTENT.

PEERS.	BISHOPS.
Clancarty	Ossory
Mayo	Oxford
Nelson	St. Davids
Powis	BARONS.
Waldegrave	Berners
	Redesdale

Amendment *negatived*.

The Report of Amendments to be received on *Tuesday* next.

House adjourned to Monday next.

#### HOUSE OF COMMONS,

*Friday, June 30, 1854.*

MINUTES.] PUBLIC BILLS.—1<sup>o</sup> Legislative Council (Canada); Borough Rates.

#### THE BISHOP OF NEW ZEALAND.

On the Motion for going into Committee of Supply,

SIR JOHN PAKINGTON said, he rose in pursuance of a notice which stood on the paper in his name, to request the attention of Her Majesty's Government and of the House of Commons to the circumstances under which the usual vote of 600*l.* for the support of the Bishopric of New Zealand had been removed from the Estimates this year. The House might recollect that on Monday evening, when the Colonial Estimates in reference to New Zealand were under consideration, he had addressed a question to the right hon. Gentleman opposite (Sir G. Grey), in consequence of certain information which had reached him only during the sitting of the House; and it was in consequence of the answer of the right hon. Gentleman the Secretary of State for the Colonial Department that he felt bound to call the attention of the House to the subject again. The answer of the right hon. Baronet was very short,

*The Bishop of Oxford*

and in substance amounted to this—that he himself (Sir J. Pakington), when he had the honour of holding the seals of the Colonial Office, had been in some degree the cause of this stoppage of the allowance to the Bishop of New Zealand, in consequence of a statement which he had made when the Colonial Estimates were under consideration in 1852. And, in the next place, the right hon. Gentleman said, that this was not a new step, for the salary of the Bishop had been stopped last year, and was removed from the Estimates of 1853. Now, with regard to the first part of that answer, namely, the reference to his (Sir J. Pakington's) statement in 1852, and as to its furnishing any reason whatever for the reduction made in this Estimate, he begged to say that he held in his hand the volume of *Hansard* in which his answer appeared—and though he did not wish to trouble the House with reading his statement on the occasion, still if any hon. Gentleman would refer to it he would find that nothing which had fallen from him could have led in any way to the abrupt reduction of this allowance to the Bishop of New Zealand; or show on his part the least intention, or made it the least incumbent on those who succeeded him in office, to place the Bishop in the position in which he now stood. And he might be allowed in addition to this to state in the most emphatic manner, that while he had the honour of acting as Secretary for the Colonial Department, nothing in the world would have induced him to be a party to the reduction of this allowance in the manner or at the moment in which it took place. Having made this declaration, he would now pass from this not very important part of the question, to the very much more important statement of the right hon. Baronet, namely, that the allowance did not appear in the Estimates of 1853, and, therefore, that it was not now stopped for the first time. Now he was sure the right hon. Gentleman on that occasion did not intend to mislead the House or create any erroneous impression. Nevertheless, while he (Sir J. Pakington) admitted that what he had said was literally correct, namely, that the Vote did not appear in the Estimates for 1853, he did mislead the House as to the real facts which had occurred, and he did mislead him (Sir J. Pakington). His (Sir J. Pakington's) statement to the House, on the authority of a friend of his, had been, that without any warning—without any notice—the Bishop of New Zea-

land had received a private letter from a member of the Colonial Office, intimating to him the abrupt cessation of his salary. That was, in substance, his statement. However, the right hon. Gentleman having stated that the Vote had been removed—not for the first time this year—that there was nothing new in the circumstance of its disappearance, as it had not appeared in the Estimates for 1853—his impression naturally was that he had been misinformed on the matter, that he had spoken under some erroneous impression, and therefore he said nothing more in reference to it. However, under such circumstances, he had made it his duty to inquire what the facts of the case really were. And here he might be allowed to add, that his inquiries had not been addressed to the Bishop in person, as such a course might have been deemed wanting in proper delicacy of feeling—but he had addressed his inquiries to a gentleman whom he knew to be a friend of the Bishop's, and whom he knew to enjoy his confidence. The result of his inquiries was to ascertain that the statement which he had made to the House the other evening was substantially correct; and he held in his hand a written memorandum from the Bishop of New Zealand in reference to the subject. The Vote of 600*l.* did not appear in the Estimate of 1853; but it should be remembered, that from the time when the allowance of 600*l.* a year was first established in 1842, the mode of payment had always been through the authorities of the colony—the payment never having been made directly by Her Majesty's Government at home. The memorandum of the Bishop was in these words:

"The salary has been always paid through the colonial treasury, to avoid the difficulty of proving that the bishop was alive, and has been always paid in the same manner from 1841 down to the present time, including, of course, last year.

So that, although the vote did not appear in the Estimates of last year, in consequence, he presumed, of the mode of payment which had been adopted, the colony had paid the salary as usual, and the bishop had received it as usual. Now, this gave rise to two questions—first, why this salary was abruptly stopped in the year 1853; and secondly, why, if it had been the intention of the Government to remove the Vote from the Estimates of 1853, no notice had been sent either to the Bishop of New Zealand, or to the authorities of the colony, of the change which had taken place. Well, and what is the

next statement which he had made? Why, that the bishop had had no notice whatever of the intention to withdraw the usual annual Vote. The first notice of any intention to withdraw it was given by a private letter from the Colonial Office, dated June, 1854, which was not received until the 25th of this month. On this the bishop wrote to know whether that letter was official; whereupon he received an answer promising an official communication, but up to that moment no such official communication had been received. Such, then, were the facts of the case—the stoppage had never been communicated to the bishop—it had never been communicated to the colony, and in consequence of no such communication having taken place, it appeared that the bishop had received his income as usual, and he never received any intimation whatever, until the 25th of the present month, that the salary conceded to him had not been included in the Estimates. Now, he was quite aware that there were many Gentlemen in that House who were of opinion that charges for the maintenance of colonial bishoprics of the Established Church ought not to be defrayed from the general funds of the country; but he believed there was no one, no matter how strongly he might entertain that opinion, who would not feel that in the case of the Bishop of New Zealand, as in the case of other public officers, at least the rules of fairness and courtesy ought to be adhered to. The first occasion, he believed—speaking from memory—on which objections were urged in this House to defraying the salaries of colonial bishops was in case of the bishoprics of Canada. A good deal of debate took place about the years 1831 or 1832 with regard to this payment, and a great change consequently took place. That change was this—the Government, yielding to the objections entertained against the payment being defrayed from the revenues of this country, consented that it should cease, but subject to the understanding that their salaries were to be continued during the lives of the existing receivers. Now, according to this rule, though the question of policy as to payment or nonpayment might be raised, still no one could take exception to the perfect fairness of the decision. He could not believe that Her Majesty's Government had the smallest intention of acting with unfairness towards so distinguished a man as the Bishop of New Zealand, and therefore let him call attention to the circum-

stances under which his appointment took place. The noble Lord the President of the Council (Lord J. Russell) would recollect that it was at his suggestion—in fact, it was at the time the noble Lord held the office of Secretary of State for the Colonies, under the administration of Lord Melbourne, and towards the close of that administration—the noble Lord determined that the episcopacy ought to be extended to our colonies. In pursuance of the recommendations of the Government of the day, several additions were made to the episcopacy, and amongst the others was that of the bishopric of New Zealand. And it was at the noble Lord's own request that the Bishop of New Zealand was appointed to that see, and it was at his suggestion that the salary of 600*l.* was voted in the estimates, and so continued to be every year since, up to last year. Now he would not again dwell upon the personal qualities of the bishop; what his feelings were on that point he had stated on Monday night; and the right hon. Baronet (Sir G. Grey) had re-echoed his sentiments. But he would put it to the Government whether it was right that a man whose ability and capacity were as great as his character was remarkable for its purity and exemplariness, that a man with such prospects as were ensured to him by his great talents, who having abandoned his country had gone to the other side of the globe to minister to the spiritual necessities of his scattered countrymen, and of the heathen population of the colony, receiving for his services the miserable pittance of 600*l.* a year—was it right or decorous, he would ask, that the income of such a man should be taken away from him at a day's notice, without any warning, or without the courtesy being shown him of a communication as to the intentions of the Government? He was quite aware that the right hon. Gentleman who had so recently succeeded to the Colonial Department must be personally cleared of any part in the transaction, and he was equally convinced that the noble Duke (the Duke of Newcastle) was the last man to intend any disrespect or any discourtesy to such a Prelate, and therefore he could not help thinking that there must be some misapprehension in the matter, and that the Government had been acting under some mistake or misapprehension. If that were so, he hoped that justice would yet be done. He had stated the arrangement which was come to in the case of the Canadian bishops—namely, that the existing

*Sir J. Pakington*

bishops should hold their incomes for their lives; though he did not mean to say that in all cases as a matter of right that rule ought to be followed; for he found that there were several bishops of the Church of England in the Colonies who at one time were paid through the Estimates, but whose salaries had gradually disappeared from them; but at the same time, he believed he was right in stating that their names had not so disappeared until some other arrangement had been made for them, and until some equivalent was granted. And he would appeal to the Government to adopt a similar course in this case. He would repeat, he had had no communication whatever with the Bishop of New Zealand himself on this subject. The Bishop of New Zealand, it was well known, was a man of the greatest disinterestedness; indeed, he believed the Government had had a striking proof recently of his devotedness to his duty; so much so, that he would say that the bishop was desirous of persevering in his position unremunerated by any salary from the Government. That, however, was not the question involved; the question was, not what might be the individual feelings of a right rev. Prelate—not what might be due to the dignity and position of the Bishop of New Zealand, but what was due to national faith and fair dealing—between Parliament and a person in such an exalted position. He believed he had now correctly stated the facts of the case; but they appeared to be so inconsistent with good faith, and so practically inconsistent, that he must express a strong hope that the Government would reconsider their decision, and continue the allowance to the bishop—not so long as he held his bishopric, but until some arrangement had been made which might provide for him in a satisfactory manner a sufficient income. He trusted, then, that some explanation of the circumstances would be offered by the right hon. Gentleman opposite.

SIR GEORGE GREY said, he hoped it would be quite unnecessary for him to state that no possible disrespect could be intended to the Bishop of New Zealand, for he believed every Member of the Government entirely approved of the conduct of the bishop in his diocese. And, independently of the zeal which he had shown in the management of his bishopric, he might add that he had given proof of the greatest disinterestedness, so far as pecuniary considerations were concerned. But the step which had been taken by the Government had no reference whatever to in-

dividual character or position, but resulted from the general arrangements which had been decided on regarding the public expenditure. Now he would repeat the facts which he had stated the other night. He had stated then, in answer to the right hon. Gentleman (Sir J. Pakington) that he was under a misapprehension in supposing that the Vote was withdrawn for the first time in 1854; and in proof of that he had called attention to a despatch addressed in 1851 by the Governor of New Zealand to the Secretary of State. In that despatch, dated 15th September, 1851, Governor Grey said—

“He thought he might come to the conclusion that the colony had attained a financial position that would enable it, with the assistance of a grant from Parliament of 10,000*l.* in 1852, and 5,000*l.* in 1853, to defray all its expenses; but that from and after that period it would require no further pecuniary aid from Great Britain.”

In the Estimates for the year 1852, therefore, under the directions of the right hon. Gentleman himself, the Vote for the whole civil expenditure of New Zealand was, in accordance with the opinion of the Governor, reduced to a sum of 10,000*l.* But that was not all; for the right hon. Gentleman appended a note to the Estimate, giving the substance of the Governor's despatch, and stating that after 1853 no further aid would be required out of the revenues of this country for the colony. In 1853 the Vote was reduced to a sum of 5,000*l.*, to defray the salaries of the Governor, Lieutenant Governor, the Judges, and Attorney General, with a sum of 300*l.* to pay the salaries of the clerk to the Council. To that Vote a note was appended to the effect that it was the last occasion when the Vote would be submitted to Parliament in an Estimate for the civil establishments of New Zealand. Shortly after he (Sir G. Grey) received the seals of the Colonial Department his attention was called to the subject by a despatch from the Governor of New Zealand, which alluded to the amount of the salary that the bishop might draw during his leave of absence in this country—a despatch which occasioned him some surprise, as it seemed the Governor was not aware of the withdrawal of the Vote from the Estimate. In consequence of this he requested an interview with the Governor of New Zealand, who was now in this country, pointed out to him the note appended to the Estimate of last year, and asked him the reason of his being under a misapprehension. The Governor in reply said he could only ac-

count for it by the fact of his having left the colony almost immediately after the Estimate of last year arrived there; that his attention had not been specifically directed to the subject, and that he was not aware that the bishop's income of 600*l.* was not comprised in the Vote of 5,000*l.* On ascertaining this he felt, that as the Vote had been twice omitted from the Estimates, in 1853 and 1854, and as the right hon. Gentleman (Sir J. Pakington) had himself given Parliament reason to expect that it would disappear altogether from the Estimates in 1854, he could not come to the House of Commons and ask them, on grounds that would be satisfactory either to them, or to himself, to replace the Vote on the Estimates, and so rescind the decision of his predecessor in office, and what had been stated by the right hon. Gentleman. What he did was this, he desired that a despatch should be prepared to the acting Governor of New Zealand, calling his attention to the question, and requesting him to submit to the Legislature of that colony the propriety of making some provision in the colony itself for a Vote which, with many other items, had for a long time been defrayed by the liberality of the British Parliament when the colony was unable to bear its own expenses. At the same time, knowing that the bishop was about to resign a sum of 600*l.* a year from another source, and anxious that he should not do so without knowing that the sum hitherto voted by Parliament would not in future be granted, he spoke to Mr. Merivale, and that gentleman communicated with the bishop upon the subject. Much of the misapprehension upon this subject had probably arisen from the fact that the bishop and the Governor arrived in England last year so soon after the Estimates were received in the colony that they hardly knew how they stood. Under the impression that the bishop's salary was included in these Estimates, it was paid out of funds which were at the disposal of the Governor, and it could not, therefore, be said to have terminated abruptly. He trusted that he had now given satisfactory reasons why no Vote for the salary of the Bishop of New Zealand appeared in the Estimates; but the right hon. Baronet (Sir J. Pakington) had raised a higher question, on which he must say a few words. The right hon. Baronet had said that a salary once granted ought to endure for the life of the bishop to whom it was granted. This was not a sound Parliamentary doctrine. If a colony were able to bear its

own expenditure, there was no reason why the ecclesiastical any more than any portion of the civil expenditure should fall on this country. In this instance, there was the less reason why such should be the case, because he believed that, on account of the deserved esteem and popularity in which the Bishop of New Zealand was held in the colony, there would be no difficulty on the part of the Colonial Legislature in providing a salary for that right rev. Prelate. If, however, the right hon. Baronet entertained the opinion that the salary ought to be voted during the life of the present bishop, he (Sir G. Grey) regretted the incautious language of the note to the Estimate of 1852, and of the speech which the right hon. Baronet addressed to the House on the subject. If he had thought that good faith required the continuance of this salary, it would have been but fair of him to have stated then that, though the rest of the Vote would disappear in 1854, this item of 600*l.* must still remain upon the Estimates.

Mr. WALPOLE said, that it was quite certain that through some neglect or misapprehension of what was going to take place, a great hardship, to say the least of it, had been perpetrated upon the Bishop of New Zealand. He had listened attentively to the statements of his right hon. Friend the Member for Droitwich, and the right hon. Gentleman the Colonial Secretary, and it appeared to him that an intimation had been made to the House, but not to the colony or to the Bishop of New Zealand, that the Estimates which had usually been granted for the Civil Service of that colony would be reduced in 1853, and come to an end in 1854. The consequence was, that, so far as the House of Commons was concerned, the Bishop of New Zealand ceased to obtain the salary of 600*l.* a year, which had been paid to him from the time of his appointment up to the present moment. The House never granted the money last Session; but it was paid to the bishop nevertheless, and he was under the impression that the salary was to be continued. But observe the fact—that neither last year nor during the present year, until a week ago, had any intimation been made to the bishop that the salary, which had been paid to him and continued for a long series of years, was about to be withdrawn by Parliament. Until a week ago no such intimation was given. Now, he put it to the House whether, in the case of any civil servant of the Crown, they would withdraw from an an-

*Sir G. Grey*

nual vote, a salary from that civil servant without any notice whatever? He must say that, until provision was made by the Colonial Legislature for the Bishop of New Zealand, the salary ought not to be withdrawn at all. Sure he was that, upon the case stated by Government themselves, it ought not to be withdrawn during the present year. He hoped the noble Lord (Lord J. Russell) would re-consider the question and see if a Supplemental Estimate might not be laid on the table for the purpose of continuing, at any rate for the present year, the salary which had been so unexpectedly and, as his right hon. friend (Sir J. Pakington) had truly said, abruptly taken from the Bishop of New Zealand.

Mr. W. WILLIAMS said, he thought it had been well understood that the colonial bishops should not be paid out of the public funds, but that provision should be made for them by the voluntary contribution of the colony where the services were rendered. When the colony was first formed this country made great sacrifices in contributing large sums towards the salaries of its public officers, but last year a promise was given that this particular item should be withdrawn from the Estimates. He was glad to find that the Government had adhered to that promise, and he had no doubt that the bishop was aware of the proceedings which took place last year, and knew that the vote would be withdrawn. A large majority of the people of this country did not belong to the Church of England at all, and he objected to their being compelled to submit to the degradation of contributing towards the support of the bishops and clergy of a Church from which they derived no benefit.

LORD JOHN RUSSELL said, he regretted very much that there had been any misapprehension upon the subject, and that the Bishop of New Zealand should not have been properly acquainted with the intention of Government to withdraw this Vote. The salary was first granted to the Bishop of New Zealand some years ago, when he (Lord J. Russell) was Secretary for the Colonies, and, at the time, it was proposed, he had thought it right to inform the bishop of his intention to propose it, and to state at the same time that it was a sum of money which was not intended to be permanently added to the Estimates. In 1852 the right hon. baronet (Sir J. Pakington) stated that in 1854 the vote for New Zealand would cease, and he (Lord J. Russell) should have thought that this would have been sufficient notice to the

bishop on the subject of his salary. The misapprehension which had existed seemed to have been caused by the departure of the governor and the bishop from the Colony so soon after the arrival of the Estimates, and, while regretting the existence of that misapprehension, he could not see that it was sufficient ground for introducing a Supplemental Estimate for this salary.

Subject dropped.

#### THE POLICE BILL—QUESTION.

MR. PALK asked, if it was the intention of Government to proceed with this Bill?

VISCOUNT PALMERSTON said, when the Order for the second reading of the Bill was read, it was his intention to move, for the purpose of withdrawing the Bill, that it be discharged. At the same time, he intended to ask leave to bring in another Bill, which would be confined to the county constabulary. The objections which had been urged against the present Bill, on the part of certain boroughs, were objections which he thought were not well-founded, and it was his opinion that the boroughs would be found to be practically the resort of offenders from the counties, and that they would very greatly feel the inconvenience of such a state of things. He had already received representations from several boroughs on the part of the inhabitants, stating that they entirely disagreed with the objections which had been made to the Bill by the municipal councils. That was a matter, however, which the inhabitants and the councils would probably find the means of settling among themselves. If the inhabitants found that their authorities did not avail themselves of provisions afforded by the law, and of which they themselves approved, they had their remedy in electing other councillors. If the inconvenience were to be such as he thought it would be, he had no doubt the inhabitants would adopt that course.

#### ACCOMMODATION OF COMMONS MEMBERS IN THE HOUSE OF LORDS—QUESTION.

LORD DUDLEY STUART said, he wished to take this opportunity of calling the attention of the House for a few minutes to a subject which affected the personal comfort of hon. Members. He did not know exactly to whom he ought to address the question he was about to put, whether to his right hon. Friend the First

Commissioners of Works, or to the right hon. Gentleman in the chair. He was deeply anxious that everything should be done which could at all contribute to the personal comfort of hon. Members, but he had some difficulty how to frame his question, for fear of offending against the rules of order. The subject to which he wished to refer, was the accommodation, or rather the want of accommodation, provided for the personal comfort of Members of the House of Commons, in what was to be described, in Parliamentary phraseology, as "another place." He was sure many hon. Members would be disposed to agree with him, when he said that, upon some occasions, the inconvenience which was felt by hon. Members when they were attending to what passed there, was very great. On a recent occasion, when certain explanations were given upon a subject of very great European importance, the Members of the House of Commons were unable to find that accommodation which was necessary to enable them to hear what passed. The galleries appropriated to their use only provided accommodation for a very few Members, but below the bar, there was a space which it was understood might be occupied by Members of the House of Commons, anxious to hear what was going on. Upon the occasion to which he alluded, such a crowd assembled in that space, that, speaking from experience, he could say that he was never more hustled on going into a theatre than he was then. Certainly, there were more persons present who were not Members of the House of Commons, by a great many, than there were Members; and, at the time such inconvenience was being experienced, the large galleries, which he believed were consecrated to Ministers of foreign Powers and foreigners of distinction, were perfectly empty. In the gallery in the House of Commons to which foreigners were admitted, Peers were admitted as well, and it did not seem unreasonable that a similar indulgence might be granted to Members of that House in another place. He thought that, if a representation were made in the proper quarter, either by the First Commissioner of Woods and Works, or by Mr. Speaker, some means would be taken to remedy an evil which certainly interfered with the performance of what might be considered a portion of the Parliamentary duty of Members of that House.

LORD ROBERT GROSVENOR said, he quite concurred in the observation of

his noble Friend with regard to the want of accommodation for Members of the House of Commons attending on important occasions in another place. On the particular occasion referred to, he himself was compelled to listen to the explanation of a distinguished statesman on his knees. He thought, however, that if a treaty were to be entered into between the two parties, it should be one of reciprocity. Looking at the nature of the accommodation provided for Peers in that House, it did not seem to him that hon. Members had much right to complain; for there was not a half or quarter of the room set apart for noble Lords that was provided in another place for Members of the House of Commons.

SUPPLY—MISCELLANEOUS ESTIMATES  
—EDUCATION.

House in Committee.

(1.) Motion made, and Question proposed—

“That a sum, not exceeding 263,000*l.*, be granted to Her Majesty, for Public Education in Great Britain, to the 31st day of March, 1855.”

LORD JOHN RUSSELL: In rising, Sir, to move the educational Votes for Great Britain, I shall have a short explanation to give to the Committee, but I shall not think it necessary to make many remarks on these Estimates, for the principle upon which these Votes are founded is well known, and no change has taken place in the character of the Estimates. The whole amount proposed to be voted for public education in Great Britain for the present year is 263,000*l.*, but there is a balance from former Votes of 80,873*l.*, so that the sum proposed to be expended up to the 31st of March next is 343,873*l.* The Committee are well aware that the principle on which these Estimates have been founded for many years, is not the principle of providing generally for the education of the people at large, but rather a system of assisting the voluntary efforts that may be made by the various religious denominations for that purpose. In adopting that principle, we are, of course, obliged to adopt the plan which those persons may choose for themselves in forming their schools. We do not pretend to furnish the whole of the funds, and we cannot, therefore, dictate the terms and conditions upon which the education is given. The question was how, by extending this Vote, we could confer the blessings of education in the best manner? Now, it appeared to the Government, some years

ago, that a much greater advantage would be derived by improving the character of the education given than by effecting a very great increase in its amount. A few years ago the education given in the schools of the poor was of a very low, insufficient, and unsatisfactory kind. In 1839, and still more by a Minute of Council in 1846, various plans were suggested and have been adopted for the improvement of the quality of the education given. I stated on one of these occasions, in 1839, that the great point we had to look to was an improvement in the education and in the character of the schoolmaster—that as was the schoolmaster so would be the school, and we have, therefore, since that period directed our efforts to that end. Great labour has consequently been bestowed with the view of giving efficient instead of inefficient assistance. Instead of monitors, who were part of the system both of Bell and Lancaster, we have adopted the better system of having assistant pupil teachers, which has answered extremely well, and has greatly improved the quality of the education given. Of late years these pupil teachers have greatly increased in numbers. In 1850 there were 1,717 schools, with 4,600 pupil teachers; in 1851, 2,066 schools, and 5,607 pupil teachers; in 1852, 2,277 schools, and 6,180 pupil teachers; and in 1853, 2,546 schools, and 6,912 pupil teachers—these pupil teachers representing 280,000 children taught in these schools. But the benefit derived from these pupil teachers has not been confined solely to the improvement of the character of the schools and the quality of the education given in them. The poorer classes have derived great benefit from their sons receiving incomes averaging about 18*l.* per annum for their merit and talents, and the parents have considered themselves raised in the social scale from these advantages and have derived a great deal of satisfaction in seeing their children distinguish themselves in these schools, and making a progress in the world that was creditable to themselves. This is a Vote, therefore, which may be given with very great satisfaction by the Committee. The Vote under this head of grants, to pay the annual stipends of pupil teachers and gratuities to the schoolmasters and schoolmistresses instructing them, this year amounts to 130,000*l.* It is not necessary that I should say much upon the sums of money proposed to be granted under the heads which have formerly ap-

*Lord R. Grosvenor*

peared in the Estimates. There is at the beginning of the Estimate a Vote for assisting the building of schools, elementary and normal, and it was determined by the minute of last year that a larger proportion of assistance should be given for this purpose in places where the poverty of the district was such that the inhabitants were unable to collect a sum sufficient for this purpose. There is also an increase of 500*l.* in the Vote for the articles of books and maps. Another item in the Estimate is the support of training schools. A few years ago there was but the one training school at Battersea, and that was very incomplete; but both the Church of England and the other religious denominations have very much exerted themselves in promoting the establishment of training schools. An increased number, both of young men and young women, who have been educated for schoolmasters and schoolmistresses, have received in these training schools a much higher education than they could otherwise have obtained. The average cost of the education given in these training schools is about 40*l.*, the young men costing about 50*l.* each per annum, and the young women something under 30*l.* The Government contribute about 20,000*l.* to these training schools. They are now twenty-nine in number, and the annual expenditure of these training schools altogether may be reckoned at about 60,000*l.* a year, so that the sum contributed by the public is about one-third of the whole. I have a few words to add as to the establishment at Kneller Hall, for which a sum is proposed to be voted. The original intention was to have a training school there, and a model school for the education and reformation of convicts. It appears that there are difficulties in the way of the establishment of a model school for the education of convicts; but I have been communicating lately with my noble Friend the Secretary of State for the Home Department as to his opinion upon what had best be done for the future with regard to a convict school. My noble Friend is of opinion that a penal school would be desirable, and, if desirable, the best mode of effecting it will be by attaching a school to Kneller Hall; so that those who are trained in that school may have the advantage of a training specially adapted to the education and reformation of convicts. No Vote, however, will be taken for this specific object, and no plan has yet been proposed. Upon the general question of education, it is not

proposed to alter, in any way, the system which has been approved by this House. I will not enter upon those questions which have been matters of controversy, but I hope before any long time elapses that there will be a greater concurrence of opinion than there is now with respect to the important subject of education. For, although it is shown by the Census of education which has lately appeared, as far as statistical tables went, that there has been very great progress made in the quantity of education given in the country, and that whilst in the year 1818 there was but one in seventeen of the population receiving instruction, the proportion has now increased to one in eight, or one in eight or nine; yet our general knowledge and experience of particular localities, and especially of those districts which were most populous, only too clearly proves that a less favourable state of thing exists in many places than the statistical returns, giving general averages, would lead us to infer. Whether we take the case of London, or any of the large and populous towns throughout the country, or whether, again, we take the rural parishes, we shall find that there are a very great number of young children who are not receiving instruction, and also a great number of persons who have grown up to be adults without possessing the commonest elements of education. This can only be regarded as a very unsatisfactory state of this question. The evil is one which is no doubt diminished by the great amount of voluntary contributions and voluntary efforts that have been made; yet I fear it presents a state of things which cannot be wholly reached by voluntary exertions unsupported by assistance from the State. At the same time I must confess that unless there is a prospect of a greater concurrence of opinion on the subject of education, and more especially on those religious points which creates very warm differences, I think it will be useless attempting to bring forward in this House any general plan of national education. If the Government were prematurely to introduce a proposal for establishing such a general system of education, and they failed in carrying it, such a result would only be calculated to exasperate the differences to which I have alluded, and probably defer to a later period the adoption of any comprehensive scheme on the subject. Therefore I will not now enter into the discussion of any plan of general education,

but simply content myself with saying that the Government are, I believe, now doing a considerable amount of good, although I admit that they do not accomplish so much as could be desired. They have endeavoured, where persons voluntarily united to establish schools and gave education, to assist their efforts by contributing a sum to reduce the amount of subscriptions they were called upon to make, but to a far greater extent, by means of the inspectors and the system of pupil teachers, to improve the quality of the education imparted. Without the aid afforded in this way by the Government, the conductors of these schools would be ignorant of the improvements made in other places, and the general tone of education would not be so high as in all the better free schools I am happy to say that it is.

SIR JOHN PAKINGTON said, he had listened to the observations of the noble Lord with feelings of disappointment which were very much akin to those with which he had observed the conduct generally of the noble Lord upon this most interesting and important subject from the first moment at which the present Government was formed. The noble Lord at the outset of his Administration, upon this subject, alluded to it most justly and truly as one of the greatest and most pressing questions of the day. He proceeded in the course of the last Session to carry out those views upon the subject, and he laid on the table a Bill which proposed some very important alterations in the system of education in this country. The noble Lord, however, now told the Committee that he despaired of adopting any general system of education on account of the religious difficulties, and of the impossibility of inducing Parliament and the country to concur in any general measure. But the fact was this—the noble Lord had never given the House of Commons an opportunity of stating their views upon the subject. If the noble Lord were as anxious as he was willing to believe he was to meet the views of the country upon this subject, the noble Lord ought to recollect that there was no social subject of the present day upon which the public mind was more intent than upon this question of education. With those professions of the noble Lord—and he (Sir J. Pakington) did not doubt their sincerity—how was it that the noble Lord did not bring the measure of last Session to a second reading; and that he had never given the House an oppor-

tunity of stating the opinions they entertained on this question? What had happened in the present Session? The noble Lord had not again brought forward his Bill of last Session, nor had he proposed any legislation upon the subject. The noble Lord had maintained a complete silence upon the subject until now, when at the end of the Session the noble Lord comes down, and to his (Sir J. Pakington's) surprise and disappointment, in moving the Estimates, he had first told the Committee that the Government considered the quality of education to be of more interest and importance than the amount and extent of education, and that the religious difficulties were so great that he abandoned the attempt in despair, and had no intention of submitting to Parliament a proposition for any general or more extended system.

LORD JOHN RUSSELL: I did not say I despaired of any measure being assented to by Parliament. I said that I should postpone such a measure for the present.

SIR JOHN PAKINGTON: But the noble Lord said that he considered the quality of education of greater importance than the extension of it. Now he was about to remark that there was some inconsistency in that observation with the statistical argument adduced by the noble Lord to show the increase of education in the country. The noble Lord said that the returns showed that there was one out of every eight only of the population now receiving an education. He (Sir J. Pakington), however, believed that if they went into the most populous districts in England they would not find that statistical statement borne out. On the contrary, they would find that the number of persons receiving education in those places was considerably smaller than one in eight of the population. In the United States he believed the proportion was one in six. He believed that that was the proportion that ought to be receiving education in a country that was well governed in this respect. The Government should not relax their endeavours to extend education to all classes. Although the noble Lord shrunk from this subject with a degree of apprehension, he would find himself scarcely borne out by the feeling of Parliament. There had been a movement made upon the subject this year which he considered to be of great importance. He was sorry that the noble Lord did not treat that movement with more attention. He al-

*Lord J. Russell*

luded to the Manchester scheme of education, which had been brought before the House for several Sessions. They had had a discussion upon the second reading of that Bill. He believed, if the House would address itself to this question with firmness, determination, and moderation—if they approached this question in the same fair spirit as to religious differences as had marked the Manchester measure—if they adopted the principle of that measure mainly and essentially—that they would arrive at a satisfactory solution of the general question of education. It was well known that the Manchester scheme had attracted great attention for some time past. And whatever might be the opinions of men upon the general subject, and the nature of the arguments urged by persons of different religious denominations—whatever might be their differences of opinion as to details—his belief was that if a general measure were founded upon the same principle, it would be acceptable to the country, and would relieve this nation from the stain which would rest upon it so long as it permitted the humbler portion of the population to remain in the state of ignorance which unfortunately at present prevailed to a great extent. He deeply regretted that the Manchester measure was not successful. He hoped that the Government would face the general question in a bolder spirit than they had hitherto shown; and he thought that they would be neglecting their duty if they allowed another Session of Parliament to pass with that apparent indifference to this important question that had marked their conduct in the present Session. He trusted that they would bring in a measure founded essentially upon the principle of that Manchester Bill. He would support any Minister who dealt with this question in a bold and generous spirit, and he believed that by adopting such a course they would confer a great boon upon the country.

Mr. MIALl said, he must congratulate the Committee that the Lord President of the Council had given them the benefit of his able assistance on the present occasion. Last year, it would be recollected, the education Vote for England and Wales, which exceeded the Estimates of the previous year by 100,000*l.*, was put from the Chair without any Ministerial statement whatever, and actually passed without a single remark, not because the Committee were agreed, either upon the principle of

national education or upon the mode of carrying that principle into effect, but because the educational question had hitherto been brought under the notice of the House in a most inconvenient shape; and, in point of fact, the whole of the affairs connected with the education of the country, might be regulated each year in a particular manner, simply from the accidental absence of a Member of the Government from illness or otherwise. He must say they had reason to complain that the education question came before the House of Commons in such a manner as to preclude anything like full and fair deliberation, either of its principles or the mode in which it was worked. Last year a new principle had been introduced with regard to the expenditure of the money granted by Parliament for educational purposes under the direction of the Committee of Privy Council; and though he did not for a moment offer an opinion as to whether such a change was a good one or not, still he thought it ought to have attracted some attention; but the fact was, the Education Estimates were brought in on the first day after the Easter recess, and had been passed without sufficient deliberation. He was glad to see such a state of things put an end to; and that the noble Lord the President of the Council had made a statement which, as far as the Committee of Privy Council were concerned, would give the Committee an opportunity of discussing the Vote. He did not think the noble Lord had given a sufficient reason to warrant any increase of public money for the purposes of education this year, beyond the sum devoted to that purpose last year. It was true he had stated it was not so much to provide for a greater extension of education as to improve the quality of the education imparted, and that it was rather an aid to the voluntary principle; but he had said nothing that would justify the Committee in coming to the conclusion that whereas 260,000*l.*, the Estimate of last year, was found more than sufficient for the wants of the Committee of Council on Education, there should now be demanded a sum which, with the balance, would amount to no less than 343,873*l.*; and he could not but regret that the noble Lord had not seen the propriety of explaining clearly to the Committee the necessity that had arisen to call for so vast an augmentation in this Vote. He (Mr. Miall) hoped that the popularity and abstract merits of the cause

of education would not so dazzle the eyes of hon. Members as to prevent their watching with jealousy the application of these steadily increasing funds, and taking care that their control and management were not committed to despotic and irresponsible hands. The present First Lord of the Admiralty, and also the late Sir Robert Peel, some years ago, had described the Educational Committee of the Privy Council, to whom these functions were confided, as a body clothed with arbitrary and uncontrolled power; and the latter great statesman especially had thrown ridicule on the idea of those who supposed the Committee of the Privy Council to be responsible to Parliament when the measures they devised for carrying on education were prepared and executed without the consent of Parliament. He (Mr. Miall) considered that there was much force and truth in this representation of the matter, and could not but object to the unconstitutional character of the State machinery by which education in this country was conducted. He did not wish to enter into the question of national education, but he asked the Committee whether it was quite safe to go on expanding the present educational machinery, unless it was first ascertained that such machinery was actually producing those results which it was intended to produce? Almost every Bill that had been introduced on the question of education, including those of the noble Lord (Lord John Russell) and of the Lord Advocate, had involved the necessity of centralisation; there appeared to be no objection to allow the ratepayers the liberty of taxing themselves, but they had never been allowed to control the expenditure of their own money. The Committee ought to entertain great jealousy of the extension of such a principle, and he could not help thinking that too much attention had been paid to what might be called the executive part of this question, as compared with the legislative. The Committee must recollect that when the Committee of Privy Council were first appointed, a long and solemn discussion took place in the House of Lords, and a series of Resolutions were passed against which some Protests were made. One of those Resolutions was as follows—

“That it appears to this House that the powers thus intrusted to the Committee of Council are so important in their bearing upon the moral and religious education of the people of this country

*Mr. Miall*

and upon the proper duties and functions of the Established Church, and at the same time so capable of progressive and indefinite extension, that they ought not to be committed to any public authority without the consent of Parliament.”

That was the opinion of the House of Lords on the constitution of the Committee of Council on Education, and that opinion was in accordance with that of various authorities on the question, who had also pointed out the entire irresponsibility of the Committee of Council. He thought, therefore, that when they were asked to devote 343,873*l.* for the purpose of education, they should take care that the machinery used to effect the objects of the grant was of a safe and constitutional description, which he did not think could be said of the Committee of Privy Council. At the same time he wished to be distinctly understood as not casting the slightest imputation upon the honour and integrity of those who administered the educational grants. His strictures were applicable to the system itself. He thought they were expounding a system unsound in itself, and he wished to have some inquiry into the educational results that had been produced. He had looked over the Reports of various inspectors that had been laid upon the table, and had compared them one with another. He could not for a moment pretend that these Reports were unfavourable to the system; on the contrary, he thought it might be fairly expected that these gentlemen would give direct testimony in favour of a system in which they felt they were directly interested; but if they gleaned these Reports, and went over them with a jealous eye, they would be able to pick out passages which throw more light incidentally on the subject of education both in populous places and in rural parishes, than they could gather from any of the direct testimony which they contained. There were two or three results which he inferred from the facts that were stated in these Reports. He inferred, first of all, that the system must fail in this respect, that it had given money largely where money was not wanting, and it had not given money for the promotion of education where money was really required. He could also refer to the Reports to show that the utmost restlessness of spirit had been produced amongst the pupil teachers; that expectations had been raised in their minds by the promises of the Government, which were never likely to be fulfilled; and that results were there-

by produced which were exciting the utmost alarm in the minds of the inspectors. The inducement to scholars to remain longer at school than they had previously done was another of the objects which were contemplated at the time of the institution of the Committee of Privy Council; but he gathered from the Reports that that object likewise had not been accomplished, that the scholars do not now remain longer in the schools than they had been accustomed to remain, and that no improvement had taken place in that respect. It appeared that, as regarded the teachers, they had not raised the status, or increased the average of salaries; and with regard to the pupils, they had not afforded sufficient inducements to keep them together in large numbers for a greater number of years. These were the inferences which he drew from the Reports of the inspectors, but his conclusions might be unwarranted by the real state of the facts if they were impartially examined. He did not propose to stop the action of the machinery now employed, but he proposed that they should not further expand it until they ascertained, by the inquiry of a Committee, the results that had been actually produced. He proposed, therefore, that the Vote should be limited this year to what it was last year, 160,000*l.*, including the balance of 80,873*l.* now stated to be in hand.

Motion made, and Question proposed, "That a sum not exceeding 160,000*l.* be granted to Her Majesty, for Public Education in Great Britain, to the 31st day of March, 1855."

Mr. HENLEY said, he could not agree with the hon. Gentleman opposite, when he said that no improvement had taken place in the educational condition of the people of this country. He admitted that, as respected keeping children at school as long as might be wished, there was a great difficulty; but he did not believe that it was to be attributed to any defect in the system pursued, but only to the pressure which existed upon the means of subsistence among the population. When parents found they could get 2*s.* or 3*s.*, or even more, a week by the labour of their children, they were loth to keep them at school, and so deprive the family of their earnings. He (Mr. Henley) believed that to be the great reason why the children of the poor remained for so short a period at school. In the rural districts, with which he was best acquainted, children went out to work at ten or eleven years of age; and in the manufac-

turing districts, he believed, not less early. With regard to the question of pupil teachers, he must confess that he could not himself share in the apprehension that had been expressed on the subject by the hon. Member for Rochdale (Mr. Miall). He could not understand why young men with a good education were not as likely to make their way in the world as young men with little or none. If that proposition were adopted, education should be given up altogether as an advantage. At present there was a considerable demand for persons trained to the teaching of others; he did not find any redundancy of such teachers; on the contrary, he believed the void was not as yet filled up; and when a young man following that occupation was of competent character he found no difficulty in procuring a situation, and that remuneration for his services which his position in life entitled him to expect. With regard to the large money grants for the purpose of education, he agreed with the hon. Gentleman opposite that accounts in detail ought to be rendered of the expenditure. He had never seen one that was satisfactory on that point. He did not understand why there should not be a statement showing what was spent every year upon the Estimate. The Estimate showed that 343,873*l.* had been granted, but he did not believe all that sum had been spent; he believed that the Government had armed itself with the balance remaining over, and that there was a gradually accumulating amount in the hands of the Government. He thought, therefore, this Vote should be put on the same footing as the civil contingencies, and that there should be an Estimate on a separate paper of the amounts spent and received. He believed that, by searching through the Reports of the Committee of the Privy Council, much information on the matter would be found; but that was not in so convenient a shape as if it was presented separately. With regard to the large amount of the grant, he did not, he confessed, regret it, although he should have been better content if the conditions imposed upon the members of the Church of England had been the same as those imposed on the members of other religious bodies. He could not say that he thought the Church of England had quite fair play; in fact, it had not the same facilities as were accorded to Roman Catholics, but still he would not lessen the grant for that reason. He was not sanguine on the subject of any general system of education;

but he should be glad to give such a system his best consideration when it came before Parliament. In the present divided state of religious opinion, however, he doubted much if such a system was possible. As regarded the Manchester scheme, he was not surprised that the Government did not bring forward any general measure founded upon it, seeing the ill-success which it had met with in that House, and also considering the little hope of success for a general scheme in case of the failure of the local one. He confessed he was not enamoured of that scheme, and he believed that education would be better promoted and assisted by the present plan than by any other. When the physical condition of the people was mended, and their pecuniary means increased, there would be plenty of children sent to school. With respect to the Kneller Hall establishment, he believed it to be a failure, and that the cause of the failure was, that schoolmasters were wanted to be trained after a particular fashion which was not fancied by a large portion of the people of this country, and because they were paid less than they could get elsewhere. They were, as he understood, to have 60*l.* a year in workhouses as an inducement; whereas they might get 70*l.*, 80*l.*, or even 100*l.*, for their services in other places, according to their qualifications for teaching. He likewise understood that another condition was that they should go into the workhouse for some time. That was not likely to attract young men, with plenty of other training-schools, when they could get equal education, with better chances. Unless, therefore, the Kneller Hall School was put to more useful purposes, it would be better to sell the premises and get rid of it altogether. He thought it would not be unreasonable in another Session of Parliament to look into the working of the system more closely than had yet been done, as the information now attainable, being had from the officers of the Committee of Privy Council, was necessarily somewhat one-sided, men being never apt to colour their own acts on the wrong side. In conclusion, he desired to express his belief that popular education was increasing steadily, even in a greater ratio than the increase of the population; and he believed, also, that it was increasing in quality as well as in extent. He should, therefore, support the grant, and he hoped the next Session that a Parliamentary Committee would be named to inquire into the subject.

*Mr. Henley*

LORD JOHN RUSSELL said, he wished to make one remark upon the financial part of the question, in answer to an observation that had fallen from the right hon. Gentleman who had last addressed the Committee. The right hon. Gentleman stated that the Government in previous years had taken a greater amount than was spent in the year, and he inferred from that circumstance that the sum proposed to be taken now was estimated upon the calculation that there might be an excess in the Vote over the amount actually required. The fact was, that his right hon. Friend (Sir C. Wood), when he was Chancellor of the Exchequer, pointed out when the excess became considerable, and the amounts voted had not been all spent, and recommended that in future the Vote should be reduced until that excess should have become absorbed. This had been done, and year by year less had been voted than was actually required for the expenditure of the year, the deficiency being made up out of the surplus remaining over from previous years. So far from the Vote now asked for being less than the sum required for the year, he had received a letter the other day from the managing committee, stating that the whole of the grant now proposed, including the 80,000*l.* balance, would be expended by the 31st of March next. He had forwarded that letter to his right hon. Friend the Chancellor of the Exchequer, who, however, agreed with him that it was not necessary to make any alteration in the Estimate. At the same time it was clear that the whole amount, together with the balance, would be expended, and that on the 31st March there would be none of the money remaining in hand. That being the case, he wished the hon. Gentleman (Mr. Miall) to consider whether he thought it advisable to propose to diminish the Vote, and make it 80,000*l.* less than that of last year, the consequence of which must be that many persons who received yearly payments out of this fund could not be paid, and good faith would not be kept with them. He should not object to the appointment of a Committee next year as suggested, and if they should think it necessary that the system ought to be amended, he should be prepared to consider such recommendation, but under the circumstances he trusted the hon. Gentleman would not persist in his Amendment.

MR. W. J. FOX said, he agreed with the noble Lord the President of the Council

that it was more important they should attend to the quality, rather than to the quantity of the education bestowed. He considered that the education of the country possessed two very different aspects according to the points from which it was viewed. When they saw a number of pupils on paper, and looked to the Report of the Inspectors of Schools, there would appear to be strong reasons for gratulation; but when they looked to those same pupils as they advanced in life, and gave their attention, not to returns from schools, but to returns from gaols, and when they looked to the number of those who, when they came to be married, could not read or write, they were astonished at the very narrow limits within which this selfsame education was confined, which, on the other view, appeared to be so extensive. It was well worth while to inquire into the reasons of this strange contrast and seeming contradiction. They found that out of 5,677 men composing the Militia of the counties of Cambridge, Essex, Huntingdon, Norfolk, and Suffolk, there were 2,051 of them who could write their names, and there were 3,626 who were unable to write their names. Then let them look to the gaols. Amongst the 21,000 criminals reported to have been committed in Scotland last year, they found that, except about 4,000, all had been at school for some time or other. There were only 300 or 400 of those prisoners who had received a higher education than mere reading and writing, which showed the importance of education when really extended beyond the narrow boundary to which it was usually confined. To estimate the value of education, they must look at its permanent effects on the minds of the people, and to what extent it was a barrier against criminality and vice, and upon this point the state of our gaols afforded the most reliable information. The flaw in the system appeared to him to be in leaving education to the efforts and direction of religious bodies, instead of intrusting it to the parishes, townships, and other local divisions of the country. He thought that so long as education was made contingent upon the voluntary efforts of religious bodies, it was impossible they could have an extensive national education; and for this reason, that religious bodies had another object in view besides giving that instruction which would merely make good citizens; they had another and a higher object, an object infinitely higher

he fully admitted, but it was because it was infinitely higher that it excluded from view that which was the proper business of schools. The schoolmaster became, under the circumstances, rather a missionary than a schoolmaster. The school became a juvenile church or chapel; but, though it was very important to have such institutions and missionaries, let them not elbow the schoolmaster out of his work, and deprive the world of that sort of utility which it was in the power of society to confer on the poorer classes. He believed that religion was a most vital part of education, but he thought that a school established by the State, or by the wealthier classes for the benefit of the poorer, was not the machinery for giving education in its entirety. It was only capable of being made a medium of instruction to a limited extent and on certain subjects. The State had established schools of design under the Board of Trade, without insisting on their being placed under ecclesiastical superintendence. Why, then, should they not do the same with regard to schools for teaching reading, writing, and arithmetic? He believed that the denominational and sectarian teaching had a tendency to deteriorate the quality of schools. As an instance of what the schools connected with religious bodies were worth in comparison with those of a purely secular character, he might mention that an analysis he had made of the Educational Report which had been delivered respecting Scotland, told very much against them. The schools in Scotland were divided into four classes, namely, the old baronial schools, the schools which have endowments, the schools which were supported by religious bodies, and other public schools, by which was meant those founded on the general philanthropic principle; and to these schools he had applied four tests, with the view of ascertaining their respective merits. First, he had tried them by ascertaining the number of children that regularly attended the schools; secondly, by the cost of the education; thirdly, by the salaries paid to the masters; and, lastly, by the amount of the voluntary contributions of the children. The result was that while in the religious schools the attendance on the census day was 81 per cent, in the other schools it was 85 and 6-10ths per cent; the cost of the school in the religious schools was 11s. 9d. per head, in the other schools it was 20s. per head; the salary of the master in the religious schools was 39s.

a year, in the others it was 46*l.* 6*s.* 8*d.* a year. The contribution of the pupils in the schools connected with religious bodies was 2*s.* 3½*d.*; in the other schools it was 4*s.*, giving the master in the religious schools 20*l.* 5*s.* a year, and the masters of the other schools 25*l.* 16*s.* 6*d.* a year. Now, that was a tolerably correct illustration of the state of things in this country also, and the test fully established that so long as schools were connected with religious bodies, they kept down the standard of education. To show the error of an educational system based upon religious connection, he would state the case of a girl who, upon being examined before a Committee, and when asked what religion she was, replied, "Nothing." "Are you a Christian?" she was asked. "She did not know," was her reply. "Are you a Protestant then?" "Not that I am aware of," was the reply. "Then do you know what you are?" "Yes, when I was at school I was told I was a Baptist, and so I am now, I suppose." All this showed that the sectarian principle of education was not applicable to the people of this country. True, there were well-organised sects in the country, but the mass of the people were not sectarian, and the introduction of sectarianism in matters of education rendered our public schools unpopular with the working classes, and the less the working classes had reason to suspect its presence in the arrangements for teaching their children, the more popular would be the schools to which they were invited to send them. He did not think there was much force in the objection which was urged to the action of the Committee of Privy Council on the ground of centralisation. For, in fact, in this case that merely amounted to there being a point to which information might converge, and from which it might be again disseminated to the various localities. They did not seem to have exercised any other influence over the various schools, except by disseminating information with respect to the various modes of teaching; and the utility of this no one could doubt. He had no sympathy with the objections that were urged to this Vote, and indeed would gladly see it enlarged, although at the same time he thought it should be more impartially expended than at present, and that Government should keep in view, as their primary object, the raising of the quality of education, an end which might be attained by graduating the schools, and

*Mr. W. J. Fox*

by giving more decided attention to the dissemination of secular and useful knowledge. Instead of that, however, the Committee of the Privy Council set its face against schools of a non-sectarian character, and refused them the assistance to which they would otherwise be entitled; and yet there were such schools, in which thousands of children were being taught, both in this metropolis and in Edinburgh and in Glasgow, and the inspectors who had visited them acknowledged that they stood in the highest rank amongst the schools for the instruction of the children of the poor. He must, however, acknowledge the great services which the Committee of the Privy Council had rendered to the cause of education. He believed that, without them, we should neither have had the quantity, limited as that might be, nor the quality, undesirable as that might be, of education which we had at present. What was called the voluntary system had put forth its greatest powers and done its greatest good, only under the conviction, the stimulus, and the impulse, if not by the help, of that body. It was when it was first instituted that people began to stir themselves in different parts of the country, and that the rapid increase of schools and pupils commenced. Earnestly wishing to see the instruction rendered more solid, enduring, and useful, he would support the Vote, trusting that if the time were not yet come to introduce a broad and general measure of education, much might, nevertheless, be done by the efforts of the Committee of Privy Council to correct the failings and errors which were inherent in our present system of instruction.

LORD SEYMOUR said, he had heard with great satisfaction the speech of the noble Lord the President of the Council, and he thought if anything could tend to confirm the noble Lord in his opinion that at present no great or comprehensive system of national education could be established, it was the speeches they had just heard from different Members, of whom no two were agreed as to the system that should be adopted. He thought, therefore, that Government had acted prudently in continuing the existing system, though at the same time he could not conceal from himself that there was great room for improvement in it. The Reports of the Inspectors of Schools showed the very early age at which, in the majority of cases, the children left the schools, and therefore it was most desirable that some

portion of this grant should be directed to the encouragement of adult schools, which had proved most successful wherever they had been established. More was accomplished in this way by the voluntary efforts of the people while thirsting for education, than by the reluctant labours of children; and, looking at the success which had attended the evening lectures at the Museum of Practical Geology, where the working classes listened with so much eagerness and attention to what was addressed to them, he thought the system of adult schools might be judiciously extended. Under the existing system children were taught to write as children, but they never had an opportunity of writing again; that could only be corrected by establishing an adult system, because, if they made the adults to know the value of education, the adults themselves would insist upon their children going to school, and afterwards practising what they learnt there. Thus, under an adult system, they would be working two ways for the instruction of the people. He saw a very large sum in the Vote for pupil teachers. Now, it seemed to him we were raising up a large class of pupil teachers, and he did not see how hereafter they were to find employment. You gave them an education above their class, and they were then of course unwilling to go back to labour, looking for some better position. It seemed to him that, unless you could give them that position, you were raising up what would be a discontented class of persons throughout the country, and he wished therefore to ask his noble Friend the President of the Council whether there was any future scheme for the employment of pupil teachers which would avoid the evil he had pointed out?

Mr. E. BALL said, if there were so many persons uneducated as asserted, the course to adopt, in his opinion, was to augment the grant for educational purposes. It was asserted that out of a population of 5,000 persons in a district, 3,000 could not read and write. Now, as these persons were mostly grown up, it was not fair to quote the circumstance as an argument to prove that the educational system had failed. These uneducated persons had grown up before the present system came into operation. He had attended examinations of children in his parish and in adjacent parishes; he had invited ministers of all denominations to be present, and not one had ever left the schools after ex-

amination of the children without expressing their astonishment and entire satisfaction at the amount of information—not prepared for the occasion—which was displayed by all the children. The hon. Gentleman the Member for Oldham (Mr. W. J. Fox) said that gaols were full. Now, admitting this to be so, so far from objecting to education as founded on sectarianism, the fact ought to operate the other way, and they ought to endeavour to get more of the religious element into education. His opinion was that education was not too sectarian and too religious, but that there was too little of religion in the education of the present day. He collected one curious fact from the progress of Mormonism—that two-thirds of those who went over to that imposture were able to read and write; and the inference he drew from this was, that the religious element was not in sufficient abundance in the education given to them; for those persons might be considered as educated, and yet were melancholy examples of want of instruction in religious truth. Another instance might be drawn from the reformatory institutions. He found that 86 out of every 100 of the inmates could read and write. He thought, therefore, that so far from discountenancing religion in education, they ought to do all in their power to extend it. For his own part, he would never give his support to any Vote which merely gave secular education uncombined with religious instruction to the people.

Mr. JOHN MACGREGOR said, considering the amount of ignorance that prevailed in this country, he greatly regretted the small amount of public money devoted to education. He had no faith in the voluntary principle; and he did not think that principle could supply the place of an efficient general system of education. America was an instance of the value of a system of education; and in Austria there was not a soldier who could not read and write. He was as much opposed to the system of centralisation as any man, and he was as willing to leave education free to local authority wherever it could be managed fairly. But when he found that the local authorities could not, or would not, do what was requisite, then it was, he said, that it was proper to resort to another system, and this induced him to acquiesce in the principle of Government supervision and Privy Council support. The noble Lord the Lord President of the Council had been blamed for not bringing forward

a Bill on the subject of a national system of education. But, after the fate of the Bill brought in for Scotland by his right hon. and learned Friend the Lord Advocate, he could well understand that a general measure would have little chance of being accepted by that House. He was for a general plan of education, founded on unsectarian principles. Looking at the state of education in Prussia, Belgium, and Austria, he could not but think that the state of education in this country was disgraceful to the nation. He trusted the noble Lord would give a fair distribution of the funds to schools in Scotland without reference to sectarian feelings and principles.

MR. BIGGS said, he was so thoroughly a friend of education, and he was so sensible of its beneficial results, that he would have voted for 2,600,000*l.* instead of 260,000*l.*, if that sum had been proposed by the noble Lord. He knew that in the manufacturing town of which he was a native, in Manchester, London, and other towns where children were little educated, destitution largely abounded. This country paid 2,000,000*l.* a year for correcting vice, and between 5,000,000*l.* and 6,000,000*l.* for maintaining paupers. How could they dare, then, to admit to a foreigner that, for the education of the people, they paid annually only the magnificent sum of 260,000*l.*? He felt certain, that, if a fair, open, public meeting were called anywhere in this country, an immense majority would be in favour of a system of national education. That 260,000*l.* was in his belief the best spent money in the kingdom, though perhaps it might not be spent in the best possible way. What class was most interested in educating the people? Why, the wealthy class; for how could capital, how could religion, how could free institutions, be safe, with an ignorant population? Early next Session, for the purpose of testing this Legislature, and seeing whether the House of Commons was really friendly to a national system, he should move a Resolution to this effect:—"That, in the opinion of this House, a system of national education is desirable." That would commit no Gentleman to any peculiar views on the subject at all—and the question would then come to be one only of mode—not as to the result, but only as to the means of carrying out the Resolution, upon which measure he trusted they should agree. Further, in the event of the Government

*Mr. J. Macgregor*

not proceeding with a measure or any Member older and better qualified than himself, he should bring in a Bill for extending education to the people of England and Wales framed on principles similar to those adopted in the United States. In Scotland it had been stated, on the best authority, that one-third of the children were wholly uneducated; and of the remaining two-thirds, one-half were so ill educated as to be none the better for what they had learned. Under such circumstances he must think that Sunday School teachers were the purest patriots that ever existed. What was it that prevented the establishment of a system of national education? Religious bigotry. But for that they should next Session have a national system that would include every child born in England, Ireland, and Scotland. He was surprised at the conduct of hon. Members sitting on the Government side of the House. How could Gentlemen professing civil and religious liberty oppose a Vote for the education of the people? Let them remember that they had annually 17,000 juvenile criminals on their hands, and whom they must meet in after life, and for punishing whom they must pay a sum ten times as large as that for which they might now educate them. Nothing would give him greater pleasure than to send to gaol every parent who would not educate his child. He hoped the noble Lord would think better of the matter, and reintroduce an Education Bill such as the country required. That would send his name down to posterity as the most successful statesman of this or any other age—and after that, if he wished to quit the political arena, they could spare him.

MR. MILES said, he thanked the hon. Member for a large portion of his speech, but he could not help thinking that for a Liberal Member the hon. Gentleman was somewhat illiberal, when he said that he would send to gaol the parent who would not educate his children. He rather thought that that was a system of education upon which they were not yet prepared to act. With respect to the Resolution which the hon. Member had declared his intention to bring forward next Session, he believed the hon. Member might save himself the trouble of doing so, for he believed it would be generally consented to by the House. They were all aware of the difficulties that existed to the establishing of any national system of education. The noble Lord the President

of the Council had given great attention to the subject, and knew that on this question of education three distinct systems—the sectional, the denominational, and the voluntary—had been adopted, and that if he delayed dealing with the question he would still have the same opposition to meet, and the same arguments to contend against, that he now had. The noble Lord had uniformly, during his Parliamentary career, supported the denominational system, which had now received such a development that 86 per cent of the juvenile population were being instructed under it. Why not, then, make such grants to the schools already established in connection with different communities as would enable them to receive into the bosoms of their schools the outcasts of society, who were neglected under the present system? In spite of all the efforts already made, there was still a vast deficiency to be made up. He found by a return moved for by the hon. Member for Manchester (Mr. Bright) that in ten of the largest manufacturing towns, including Manchester, Oldham, Stockport, and Coventry, containing a population of 931,217, there was one in 11·85 persons at school; and that in ten others, each with a population of above 20,000, or 530,072 in all, including York and Portsmouth, there was one in 6·95 persons at school, showing a great disproportion in the opportunities of education. He could not understand why they should hesitate to carry out a system which had already worked so well. Voluntary exertions, he feared, would never overtake the rapid increase that was going on in the population. According to the Census Report of Mr. Horace Mann, no fewer than 965,000 children in a population of between 17,000,000 and 18,000,000 in England and Wales were uncared for and untaught. The hon. Member for Oldham (Mr. W. J. Fox), who was a supporter of the secular system, had alluded to the uneducated state of the militia volunteers in the eastern counties. He was astonished to hear the hon. Member say that he looked more to the quality than to the quantity of the education, for in his opinion both quantity and quality should be regarded. He did not believe that the secular system could be carried out, because even the humblest classes demand to have religious blended with secular education. Even at Manchester, the headquarters of that party, he believed that the attendance at their two national schools was

not above one-half of the accommodation which they had provided. Except those schools—the William's School at Edinburgh, and ten or a dozen others—he did not believe that purely secular schools existed at all throughout the country. He had to thank the noble Lord the President of the Council for the letter which the Secretary to the Privy Council had written to the master of William's School, in answer to his demand for a grant of money; for it showed that the noble Lord still adhered to the principle that religion should be the basis of any system of national education. He hoped the noble Lord would turn his attention to one part of the question—ragged schools—because in a few years there would be a great increase of the number of convicts throughout the country, and an endeavour ought to be made to prevent juvenile offenders from becoming inveterate and hardened criminals. He should certainly not support the Amendment of the hon. Member for Rochdale (Mr. Miall).

Mr. COBDEN said, though he hoped he was the most tolerant of men on the subject of education, and though he was one of the foremost to appreciate the difficulties under which any Government laboured with regard to a question so vast, yet he must say, that the noble Lord the President of the Council had put his charity during the last two or three years to a great trial, for he could not help thinking that not only was the noble Lord letting down this question, but that the House of Commons was going backward with respect to it. The course which the noble Lord had pursued for the last year or two, had greatly surprised him. Last year he brought forward a measure, in which he fully recognised the necessity for a total change in the present system of administering the funds devoted to the purposes of education. He brought forward his measure, preceded by a recommendation from the Crown, and he made a speech, in which he told them, not as he had done to-night, that this was not a matter which could be done by the Government, and that they must attend to the improvement of the quality, rather than the quantity, of education, but on the contrary that education was the all-important question, and that it must be taken up by the Government even as a preliminary to the extension of the political rights of the community. He declared, if there was any one in the House unkind and ill-natured enough

to produce the speech of the noble Lord last year, and to read it to the House, after the difference of tone to-night, he thought it would be exceedingly difficult for the noble Lord to recognise his own sentiments. [Lord J. RUSSELL: They are the same.] Yes, the sentiments might be the same, but they were not brought into action in the same way; they were not such as to induce them to think that the noble Lord was prepared to deal with this question as its magnitude demanded. They were now assuredly going back on this question. They had now, for the first time, a Motion made against this Vote by an hon. Member who was opposed to all systems of national education; and very recently the Bill for a system of Scotch national education was defeated by a combination of nine Gentlemen who had taken up the plan of opposing all national education. [Lord J. RUSSELL: Hear, hear.] The noble Lord said "Hear, hear;" but how had that arisen? He must say he could not altogether acquit the noble Lord himself of being in some degree responsible for this adverse state of things, because one circumstance which greatly encouraged the voluntary party, who were opposed to all national systems, was this:—They found in the present system much that was indefensible in principle—much that nobody could justify—much that would warrant hon. Members to take up with the voluntary system, in order to escape the injustice of the present system. Now, one of the ways in which they might hope to recover their lost ground was to do that which had been done by the noble Lord to-night—to introduce the subject with a view to its being freely and fairly discussed. If they had but this question discussed night after night, and Session after Session, as was done with other great questions, it was his belief that they would soon be in a better position with regard to it than they were now. He was willing to admit that the Government, sixteen or eighteen years ago, had done a considerable amount of good by their mode of administering this fund through the agency of the Privy Council; that they had improved the character of education; that they had raised the quality of tuition; that they had elevated the status of the teacher. But still, all that had been done was done, if he might so express it, clandestinely. It had been smuggled, if he might so say, by the Committee of Privy Council, because there was a constant apprehension of

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bringing the subject forward in that House, as it was thought that discussion on the subject would be fatal to the cause of education. For some years after the system was begun, perhaps that might have been the case. But still, if they had had discussions upon the question—if it had been brought before that House Session after Session, giving rise to debates in which principles would have been advocated and the truth developed—it would have ended, after a few years, as other great questions have ended—one party or the other in the controversy would have given way, and they would have allowed the right principle to be carried out into practice. He was, therefore, glad that the noble Lord who was at the head of the department most interested in the progress of education had now introduced the system of prefacing the Educational Vote by a general statement of the policy of the Government upon the subject. He was of opinion that they would have to make up their minds that there must be a local rate for educational purposes, and that they could not otherwise carry out any system of national education that would be worthy of the name. After fifteen or sixteen years of very minute—he might almost say of trifling—dealing with this question, he thought it must be admitted that the time had come when they must do something decisive. As was said by a great warrior on another subject, this country could not afford to have a little national education. They had a population of 28,000,000 of people, and it was shown by the Census that there was at least 1,000,000 of children who ought to be at school, but who did not go to school. If they were to establish a system of education in this country that would compare with what was done in America, they must raise at least 3,500,000*l.* a year. And England was rich enough to do that. It would be a much better investment than to spend 5,000,000*l.* upon poor rates; and they must make up their minds that this great and momentous question could not be dealt with by the inadequate sum of 350,000*l.* from the national Exchequer. They could not obtain an adequate sum from the Government, because the disbursement of it would involve an amount of centralisation which would be repugnant to the feelings of the people of this country. Would anybody deny that the present system placed this country in an invidious—he might say a disgraceful—plight before the eyes of the civilised

world? An American tourist of some eminence, who was lately in this country, said that England was the only country in Europe that had not made some provision for education that deserved the name of national. This was a disparagement of them in the face of Europe, unless they could show to the world that they were arriving at better things. He hoped that that was really the case. He was gratified to find the good feeling that was now prevailing on both sides of the House, and the degree of progress they were making—in spite of all that might be said of the little that was actually accomplished—still it was gratifying to look at the progress that had been made on the University question, on the limited liability question, on every question, in fact, that came before them respecting the social improvement or the education of the people. Why, the hon. Member for East Somersetshire (Mr. Miles) spoke on the question of education with as much unction and good-will as could be done by any Member on that side of the House. So that he thought no one could doubt, if they addressed themselves in earnest to the discussion of this question, that they would speedily arrive at a solution, as they had done in so many parts of Europe, and in America, where they had the same difficulties to contend with. In the Colonies also the same conflicts had been gone through, but all had come to some solution or other of the difficulty. That solution, he believed, would be found here through the medium of a local rate, without clogging that rate with the conditions that were sought to be attached to it either by the hon. Member for Oldham (Mr. W. J. Fox) on the one hand, or the hon. Member for East Somersetshire on the other. He did not think that either of these hon. Gentlemen had a right to dictate to the other. His own opinion was that they must not impose a restriction of any sort, but leave it to the people of the locality to decide for themselves. He would suggest to the noble Lord, whether it would not be worth his while to address himself to the question in this spirit; to see if he could not devise a permissive Bill, giving power to the different localities; let him begin with corporate bodies if he liked, giving power to the corporations to levy rates for the purposes of education. They had already taken the initiative in this matter, by allowing corporations to raise funds for

reading-rooms and museums. But let this be done in a liberal spirit, as if it was intended to carry it out; let it not be clogged and guarded with such jealous provisos as to make it necessary that a corporation which had the power to raise as large a sum as 100,000*l.* for waterworks, gasworks, or similar purposes, by a simple majority, required a vote of two-thirds of its members, or a reference of the question to a primary assembly, to make a rate for the purposes of education. Let the corporations have the power to establish a plan of education which should be supplementary, if it was thought necessary, to the existing schools, as was proposed at Manchester; he would not throw out of use any existing school whatever; there would be room for them all. With regard to the Manchester and Salford system of education, he agreed with the right hon. Member for Droitwich (Sir J. Pakington), that there was everything to commend and to admire in the spirit of the gentlemen who worked in that cause. There were many private meetings among the advocates of the secular and the denominational system, and there was every tendency to toleration and to compromise among them, and to this day he could hardly tell what it was they differed about at last. The difference between them was reduced to an infinitesimal quantity. In such a crisis a Minister of the Crown might be useful to the cause, but at that very time the noble Lord was throwing out sentiments which struck with despair many of the friends of education, by defining, in a more arbitrary sense than ever, what he understood by the religious education to be given in those schools. There was no occasion whatever to be afraid that the people of England wanted to do anything irreligious; there could not be got together a hundred decent and respectable men in any part of the country to discuss the subject of education into whose heads it would ever enter to do anything inimical to the cause of religion; and yet no sooner was the subject of secular education mentioned in that House than some hon. Member or other jumped up as if a plot was laid to undermine Christianity. For himself, he would candidly confess, so anxious was he for the spread of instruction, so little was he jealous of efforts of proselytism, and so anxious was he for education either on sectarian principles or without them, that he was perfectly willing to join at once either with the hon. Mem-

ber for East Somersetshire in his efforts for denominational education, or with the hon. Member for Oldham in his efforts for secular education, meaning separate education, as he would prefer to call it, because no one thought of excluding religion from education. He would join with either on this simple condition, that they should show him it was practicable to include the whole community in the provisions of their measure. Had they not had, he would ask, experience of the failure of the denominational system? Had they not had sufficient proof that a large portion of the religious bodies would neither accept of the funds, nor pay them if they could avoid it? They had proof in the fact of nine hon. Gentlemen in that House, who were opposed to all national education, though, to his own knowledge, there were no Gentlemen in the House, or in the country, more anxious for the spread of education than these hon. Gentlemen were; but their objection to the present was, that it violated religious principle, for the House coupled religion with education, and they were voluntaries on the subject of religion. But the hon. Member for East Somersetshire maintained, as a condition of his granting assistance, that religion of some kind should be taught in the schools. [Mr. MILES, Hear, hear!] Now, had the hon. Gentleman ever carried out this principle to its strict logical conclusion? He insisted that religion should be taught. What religion? He would not answer, the Church of England, for the House and the country were now both got beyond that; and the Church of England was no longer the religion of the whole people. He must, therefore, have paid teachers of the Church of England, Baptists, Independents, Unitarians, Roman Catholics, and Jews. Would the hon. Gentleman agree to that? [Mr. MILES: Certainly]. Well, then, he hoped the hon. Gentleman would settle that question with his neighbour on his right hand, Mr. Spooner. Did the hon. Member for North Warwickshire agree with the hon. Member for East Somersetshire in voting money to teach all religions? He had heard a great deal to the contrary of that from more than one of the hon. Members for Warwickshire. Well, again, there was the hon. Member for Cambridgeshire (Mr. E. Ball), whose speech had concluded with the sentiment that the Word of God must be taught—would he be willing to make an exception

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in favour of Jews and Roman Catholics? He should be glad to hear the hon. Gentleman's views on that point, for it was most desirable that the subject should be fairly discussed. The question must be solved in one of two ways—either they must teach all religions or they must teach none at all. They could not stop between these two points. But it was just between these two points that they were stopping, because the present system was one by which voluntaries were altogether excluded; they were neither willing to pay nor to receive rates, and it was just because the present system involved over again all the difficulties of the church rates that it was impossible to rest content with it. He did not think that the question would be solved by insisting that nobody receiving rates should give religious instruction. Probably, then, some decision of this sort would be come to—to allow the different localities to choose for themselves the religion which should be taught in their schools. There was a large proportion of the thinly populated rural parishes in which all the inhabitants belonged to the Church of England; and he would never consent to be a party to passing a Bill which should prohibit the Catechism of the Church of England, and the religion of the Church from being taught in the schools of such parishes. But, then, in the large parishes where there was a mixed population, it would be impossible to insist upon the teaching of any one particular religion. If they did, those differing from that religion would not send their children, and other schools would have to be built for their accommodation. So that for the convenience of all parties, and in order to make the best use of existing school accommodation, they would have to resort to the plan of setting aside a particular time when the sectarian catechisms could be taught. It was not the Bible that was the difficulty. The reading of the standard edition of the Bible without comment would not stand in the way anywhere, perhaps, but in parishes where there was a large mixture of the Roman Catholic population. Now, if such a permissive measure as this were passed, he had sufficient faith in the good sense of the country that in all localities where it was adopted it would work well. He believed that this religious question was a mighty bugbear—a bubble which would burst the moment they touched it with their finger. He remembered speak-

ing on this subject with Mr. Henry Dunn, the highly respected secretary of the British and Foreign School Society, and he said—

“ I hear a great deal of talk about the religious difficulty, but in the whole course of my long experience I never met with it in practice.”

And so he was convinced it would be found everywhere if they would allow the country to try the experiments that best suited the different localities. He did not say that they would not have a great deal of strife in different places before parties accommodated themselves to this new policy. But they would soon find that the example of one town would stimulate another—that the people of one town would be ashamed of not being as tolerant and sensible as another, and the most suitable system for each locality would soon be adopted all over the country. He would remind the noble Lord that, instead of the languid tone and feeble hand with which he had been sorry to see the noble Lord the Lord President handle this question of late, he wanted to see him come down and declare boldly to the country that things could not go on as they were; that all parties were now agreed the present system was unworthy of the nation; and that, instead of flinching from the question because there were difficulties in the way, they must have the subject brought before them continually, and held up constantly before their eyes till it was settled one way or another; that we must cease to be the only nation in Europe which had not toleration enough to adopt a national system, and yet had the vanity to put ourselves forward as having adopted one. Let them consider what an advantage they were giving by the present system to the friends of voluntary education, who were a rising power in that House, and whose power was still greater among his own constituents in Yorkshire, which, he believed, was the head-quarters of voluntarism. He had read with astonishment, in the Report of the Committee of Privy Council, that a Resolution was agreed to in April, 1853, giving a capitation fee of 5s. or 6s. for each child attending school in districts where there were not more than 5,000 inhabitants. Now, he had no objection personally to that system, but he thought it gave great cause to the advocates of the voluntary system to complain. Here was the Committee of Privy Council, of its own accord, without consulting Par-

liament, granting public money, to which the voluntaries had contributed; for purposes in which they could not partake, for it must be borne in mind that the voluntaries were excluded altogether from these schools. It was impossible not to admit that this was unjust to the voluntaries; and contrary, too, to constitutional principles; for he really must say that it was going a little too far for the Privy Council to dispose of the public money in this manner. He did not wish to see anything undone that was now being done. He had no objection to the appointment of inspectors. On the contrary, he thought that very valuable information was derived from their labours. He was sorry, however, to see from the returns presented by these gentlemen that the working people seemed to have a great disinclination to send their children to school. The right hon. Gentleman the Member for Oxfordshire (Mr. Henley) said that the working people had not the means of sending their children to school, that they were required to gain their own subsistence at a very early age, but he (Mr. Cobden) had been struck with the repeated observations of these inspectors, that it was not in bad times that children were withdrawn from school, but in times of prosperity, and at the present time, when the parents were earning high wages, the children of the working classes were undergoing that disadvantage to a great extent. The inspectors said, that children of only six and seven years of age were sent to earn their own living. Such a state of things was disgraceful to the working-classes—disgraceful to those parents who sent their children to work at that early age, instead of allowing them to attend school. But there was another party to such a practice, whose conduct was equally disgraceful, and that was the employers. Those who sanctioned such a proceeding ought to reflect that they were lending themselves to what was unnatural; they were taxing children's muscles and brains at an age when they could not be so taxed without injury to their health, and they were doing that which they would not do in the case of their own horses or dogs, for them they always allowed to grow up to maturity before setting them to work. Both parties ought to be put to shame, and the best way to place the working man in a proper position was to provide such a system of education that none could have an excuse for not sending his children to school. When he was engaged in business,

soon after he had built a school and provided a suitable teacher, he affixed a notice on his premises intimating that nobody would be employed who had not acquired a moderate degree of education, and the plan worked exceedingly well. If they did that throughout the country, the evil would soon cure itself, and they would have many magistrates of the turn of mind of the hon. Member for Newport (Mr. Biggs), who declared he would be really glad to send the vagabonds who neglected their children's education to prison. He feared that, for the present, our systems of education were not reaching the masses of the people at all; and this was the great difficulty of the question, which too frequently was overlooked. He believed, too, that there was great delusion in the public mind as to the extent to which our unskilled labourers were identified with any religious sect whatever. He had read the Reports of town missionaries, and he had consulted men who went round the country upon errands of temperance, and all their statements confirmed him in this conviction. Dr. Hook might also be cited in proof of what he was going to say, namely, that a very large majority of the working classes did not belong to any sect whatever, and that they were, habitually, connected with no religion whatever. The Census Returns established the same fact. The Report on Religious Worship proved that one-third of the population were not habitual frequenters of any place of worship whatever. All this proved that, whatever might have been done so far, education had not reached the mass of the people. On this subject he was greatly struck with a remark of Mr. Arnold's, the Inspector of the British and Wesleyan, and other denominational schools in the midland district of England and Wales. Mr. Arnold said—

"I remain in the opinion which I last year expressed, that in the schools which I visit, and, above all, in the Wesleyan schools which I visit, the children of the actually lowest, poorest classes in this country—of what are called the masses—are not, to speak generally, educated; that the children who are educated in them belong to a different class from these; and that, consequently, of the education of the masses, I, in the course of my official duty, see, strictly speaking, little or nothing."

Take the statistics of our mechanics' institutions—they proved precisely the same thing. Instead of serving mechanics, as their name expressed, they were serving warehousemen, clerks, shopkeepers; here

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and there were a few foremen, and now and then might be seen a highly skilled mechanic, but of the mass and body of the people there were none. He ventured to say, therefore, that the unskilled labour of the country had not been sufficiently provided with the means of education; and he would venture to assert, further, that there was not one agricultural labourer in all England and Wales—and there were upwards of 1,000,000 of them—that subscribed to a mechanics' institution. We deceived ourselves on these subjects. It was the same with every other attempt hitherto made to educate the people. With regard to the Society for the Diffusion of Useful Knowledge, Lord Brougham, he believed, would be the first to admit that its efforts had not succeeded in reaching the parties who were first in his mind, and whom he was most anxious to serve. Let any hon. Member ask where the *Penny Magazine*, *Chambers's Journal*, and the other cheap literature of that useful class, most circulated; it was not among the people for whom it was primarily designed; it stopped short of the working classes, and was found only on drawing-room tables and shopkeepers' desks; it was not found in the cabins and cottages of our unskilled labourers. He contended, therefore, that it was not merely the quality of the education imparted that was most wanted, but the quantity of it; we wanted, in fact, the great mass and body of the people reached by the schoolmaster, for it was precisely those who had not been touched by any previous effort. This great work could not be accomplished through the religious denominations, because it was proved beyond the shadow of a doubt that the mass of the people did not belong to any; and he agreed with his hon. Friend the Member for Oldham (Mr. W. J. Fox), with respect to the class who did not belong to any sect, that if they were not inspired with faith in the disinterestedness of the education offered to them, if they were driven to the school underneath the chapel, or at the gable end of the church, the result would be a failure. They must be taught that the school was open from a sincere desire to educate their children, and from no desire whatever to proselytise. What, he asked, had been the experience of such a system in America? Were we afraid of improving the intellect of the people of this country, to say nothing of their morals? Could it be supposed that, by

raising the intellectual standard, by accustoming the people to habits of thought and mental discipline, the interests of religion were not likely to be promoted? Let the experience of America be consulted; ask the people of the New England States. Had the progress of education there, where creeds and catechisms were banished, been found inimical to the extension of religion and Christianity? On the contrary, all the outward and visible signs of a religious temper prevailed. Judge of the people there by the number of their places of worship, by the observance of the Sabbath. How many Sunday newspapers had they? How many persons travelled on the railways on Sundays? In fact, test them by all the usual outward and visible signs of religious observance, and he was sure there would be found in all the free States of America—and everywhere except in the Southern States, where there was an admixture of Spanish and French habits—more religious sentiment than in England. What, then, were we afraid of? We could not cure the evil by the present plan. Then let some other be adopted. At all events, let the question be discussed; let it not be kept back in the recesses of the Privy Council Office. He had seen questions almost as knotty as this unravelled and untied, and, in the end, very much to the satisfaction of all parties, who had been for years quarrelling with each other upon them, by virtue of discussion. The present debate, therefore, would be useful in that respect; and as it would be a fatal error to refuse a comparatively small sum of money for the purpose of educating the people while we were spending 10,000,000*l.* on war, he hoped the Amendment would be withdrawn.

LORD JOHN RUSSELL: I can hardly hesitate, after the speech of the hon. Gentleman who has last addressed us, to endeavour to set the Committee right with regard to what I really said in proposing this measure. The hon. Gentleman says that, although his charity is very large, he cannot carry it quite so far as to be at all satisfied with the representation I made to the House and the language I held. But then I must say he did not carry his charity very far, because he did not carry it so far as to state what I really said, and he was obliged to state something very different from what I said, in order to find fault with it. I said, that in my opinion, it was desirable in the present state of education to improve the quality of educa-

tion; I said the plan of distributing grants by the Privy Council was not equivalent to a system of education—that it was not a system—and that therefore I thought the good that could be effected was not so much by the extension of the quantity as by an improvement of the quality. I said, in a subsequent part of my speech, that I thought there was not at present that concurrence of opinion, especially with regard to the religious part of the question, which would authorise and justify the Government in bringing a plan forward this Session; but I never said—I never dreamt of saying—that the quality of education was the only thing to be looked to, or that any measure on the subject of education was not to be hoped for until a greater concurrence of opinion prevailed. Now, although the hon. Gentleman has pointed out, as he conceives, that this is a question not surrounded with so many difficulties as others suppose, yet in every step he has taken, he shows how great those difficulties are. He partly made a proposition, and then in a few minutes afterwards he showed how many obstacles that very proposition would encounter. The hon. Gentleman says—“Let there be continued reading of the Bible, and let there be the learning of the Catechism in those parishes where every inhabitant is of the Church of England.” He went on to say, some time afterwards, that the voluntaries object to any teaching of religion by the State, and yet you are to possess an Act of Parliament which would authorise those parishes to which he refers to teach the Bible and the Catechism. But let me remark that there are not so many parishes as the hon. Gentleman supposes which are composed entirely of Churchmen, and that, at all events, there are a considerable number of parishes where, although Churchmen may be in a great majority, there are some five or ten different Dissenting families, who, when the parish was authorised to levy a local rate, and when they were told by a great majority that that local rate would be applied to a parish school where the Bible and Catechism would be taught, would, if they were voluntaries, of course protest against such a rate. In fact, there would be some danger of the objection made by the right hon. Gentleman opposite the Member for Midhurst (Mr. Walpole) in 1852, that if we had schools established in such a manner, it might be raising a new church-rate difficulty and a new church-rate question.

tleman (Mr. Miall), nor do I think it requisite to raise the difficult and perilous questions which would meet us were we to propose any general and national scheme at the present time. I should be glad if, by means of discussion, we could be enabled to arrive at anything like an agreement upon this subject. The hon. Member for the West Riding has used most laudable efforts himself to improve and extend the education of the country, but I do not believe, if we were to bring in a plan which took no notice of religion in the subject of education, we should be likely to succeed. I am supposing now a plan in conformity with the proposition of the hon. Gentleman, and to such a plan I do not think we should obtain the assent of this House or of the country. I believe a plan of that kind would be liable to all that feeling of opposition which was raised many years ago to the various plans I have referred to. But in any plan brought forward we must preserve that which has already been done. I do not believe, after all—though there is a great deal of ignorance in this country—I do not believe there is a country in which education has made such rapid progress as in this within the last five years. I trust that the result of that progress will be, that we shall come to a more general conviction that what remains to be done ought to be effected. I quite agree that there could be no work more worthy of Parliament than a national system of education—the extension of education to every poor child throughout the country. But I trust that whenever such a plan is brought forward it will be maturely considered, for after the failures that have taken place—after the failure this year of the Scotch Education Bill—the bringing forward of an immature general plan for England and Wales would very much tend to postpone the adoption of any plan for many years. I have endeavoured from 1839 to the present time to promote education. I was in hopes that, though not able to carry any system of national education, I had yet done something towards this object; and I can only say I am sorry to find, from what has fallen from the hon. Member for the West Riding, that he thinks I have been a great obstacle in the way of education.

Mr. EWART said, he thought the speech of the hon. Member for the West Riding hardly called for the concluding observations of the noble Lord. The noble Lord had certainly done much for the pro-

*Lord J. Russell*

motion of popular education, and he also considered that great good had been done by the Committee of Council on Education, but he did not believe that the Committee of Council could be the means of affording a thorough system of education to the people of this country. He was of opinion that nothing less than a system of general rating would suffice for that object, and he thought that general rating ought to be carried out on the principle of self-government, which might be said to be indigenous to this country. In connection with this question, he wished to ask whether any reform was to take place in our public schools? It would be of little use reforming the Universities, unless there was also a complete reformation of our intermediate schools. Though he did not think a thorough national system of education could be carried out soon, or that immediate harmony on the subject was to be expected, yet he saw that there was an approximation to that end, and he hoped that from that evening they would be able to see their way to a complete national system of education.

Mr. HEYWORTH said, it was the voluntary principle that had accomplished the great object of which they heard so much in that House, and he was astonished that the hon. Member for the West Riding (Mr. Cobden) should have any distrust and want of confidence in that principle. The hon. Member for the West Riding had himself been a great voluntary teacher when he instructed the country from one end to the other in the principles of free trade, and he, of all others, ought to put implicit confidence in the voluntary principle. Improve the position of the people, and they would soon everywhere establish schools for themselves; and the only way to improve the position of the people was to follow up the course they had been pursuing, to open up to the utmost the channels of trade and commerce, and remove taxation from every article of commerce, and from everything that could promote the comfort and well-being of the people. Of all the systems of education that had been in operation that of Sunday Schools had been the most effective, and they were entirely upheld by voluntary effort. The proof of a people being well educated was the moral propriety of their conduct, and he asked if in any country on the Continent they could find a people who conducted themselves, on the whole, better than those of England? The system of

ragged schools also was supported on the voluntary principle, for here, as in many other respects, the interference of the Government would be found impossible.

Mr. MIALl said, if he understood the noble Lord as consenting to the appointment of a Committee to inquire into the results of the system of education adopted under the Minutes of Privy Council, he had no objection to withdraw his Amendment.

Amendment, by leave, *withdrawn*.

Original Question put, and *agreed to*.

(2.) 193,040*l.*, Public Education, Ireland.

Mr. KENNEDY said, he rose to call the attention of the Committee to the necessity for rendering national education in Ireland more comprehensive and complete—first, by means of industrial instruction adapted to the wants and circumstances of the several districts of Ireland; and, secondly, by securing the most efficient teachers by an adequate scale of salaries commensurate with their important and engrossing duties. The returns showed how highly the privilege of attending an industrial school was estimated in Ireland. The average attendance of scholars in the Irish national schools was 111, but the average attendance at the industrial schools was 433. If the House would promote industrial instruction in schools, it was certain that the children would largely avail themselves of it. The Commissioners of National Education in Ireland had upon their rolls about 544,000 children, but if the proportion were what it ought to be, there would be 1,285,000 children receiving instruction in Ireland, and, if a system of education adapted to the wants and circumstances of Ireland were introduced, there would be that number of children on the rolls of the schools. In England every tall chimney they saw was an index that an industrial school was in operation beneath it; but there was no industrial training for the children of the poor in the greater parts of Ireland. If their object was to educate, instruct, and to elevate the condition of the people, then every national school ought also to be an industrial one in some branch or the other. They had an ignorant population in Ireland, but an industrious one, if an opportunity were allowed them to exercise their powers. He was not begging money for this object, he only asked the Government that the sum devoted to Ireland should be distributed wisely and according to the wants of the country. In order that the

instruction given might be of a good and sound character, they must have suitable teachers reasonably remunerated, but in many parts of Ireland there were great complaints as to the rate of remuneration. The rate of payment varied, he believed, from 18*l.* to 36*l.* per annum, though on averaging the sum in the Estimate devoted to teachers he could only make the average a little more than 15*l.* each per annum. [The hon. Member then read a letter from a teacher, in which the writer said that he was starving, that his salary and income from all sources was only 22*l.*, and he entreated the hon. Member to call attention to the small salaries received by teachers in comparison even with the sums received by policemen and labourers.] He did not on the present occasion intend to move any Amendment, yet he still trusted that the Government would take the matter into consideration; if they did not, he would next Session move an Address for a Commission of Inquiry on this subject.

SIR JOHN YOUNG said, that no subject could be of more importance to all classes of society than that of a judicious union, within certain limits, of an industrious and literary education. The industrial education had been introduced into the national schools of Ireland to such an extent that many well-informed persons thought that they had better for the present not proceed further until they had ascertained how far they could safely carry on this without interfering with a literary education. Industrial education was encouraged in Ireland by the National Board more, he believed, than in any other country in the world, and those who had visited the model schools in various parts of Ireland had had the satisfaction of seeing the number of pauper children who had, through the means of these schools, been enabled to gain a honest livelihood. They had in Ireland thirty-two model schools, in which both not only the practice but the theory also of agriculture were taught. There were also fifty-six agricultural schools connected with the Poor Law Union, in which the same system as in the model schools was carried on. He considered that the hon. Member (Mr. Kennedy) had understated the salaries of the teachers, as lately there had been a great demand for them, and he believed that the salaries varied from 30*l.* to 40*l.* No person certainly was better entitled to bring forward this question than the hon. Member who last addressed the Committee,

for he had, in a remote district of Ireland, established schools which had conferred a great benefit on a neighbourhood which, from its unfortunate situation, could not through other means have received it. He thought, however, that the hon. Member would allow that a system which in the hands of an individual was successful might not be equally so in the hands of the State. It was very doubtful whether the attempt to engraft the industrial system as a general rule upon the educational would be successful; but, however that might be, the Board of National Education and the Government were fully impressed with the advantages of spreading among the poorer classes in Ireland an education in industry as well as in literature. Both in the gaols and the work-houses the plan had been carried out to a very great extent, and much had been done under the national system. In addition to this, a plan for the management of local institutions for practical science and the fine arts was about to be extended to Ireland, and the Government were pushing it forward as much as they possibly could. He gave the hon. Gentleman great credit for his zeal and earnestness upon the subject, but he thought that all that could be desired was now being done. The Government fully appreciated its importance, and they were endeavouring to carry it out as far as practicable.

Mr. J. BALL said, he agreed with the right hon. Baronet that it might not be practical for the Government or State to undertake, in that complete sense which some persons had desired, a perfect and organised system for industrial employment of the poor of Ireland. He believed that the system which had been commenced in Ireland had not reached the point it might attain. He would beg to suggest to the right hon. Secretary for Ireland a point for consideration, namely, whether the teachers were properly qualified for giving instruction in industrial pursuits. It appeared to him (Mr. Ball) that the defects of an early education prevented them from being so useful as they might be to the youthful poor of Ireland. There were some branches of industry which were connected with the fine arts which were especially congenial to the minds of the Irish poor, and in which the boys attained rapidly a great success. One branch he would mention was carving in wood and stone. He hoped the Government would exert themselves to encourage these branches of industrial education.

*Sir J. Young*

Mr. M'MAHON said, he must express a hope that the Commissioners of Education would encourage the instruction of children in the making of fishing-nets. The fisheries of Ireland were formerly carried on with great vigour and success. The county which he represented (Wexford) was particularly remarkable for the great fishery trade which it carried on. Lord Morpeth, in 1826, had obtained a Committee of Inquiry into the fisheries of Ireland, which had been nearly destroyed by the legislation of the British Parliament; and that Committee expressed a desire that attention should be paid to the necessity of instructing the children in the schools in the art of making nets.

*Vote agreed to.*

(3.) 79,845*l.*, Departments of Science and Art, &c.

Mr. ALEXANDER HASTIE said, he wished to urge the claims of Glasgow to have an industrial museum established there, regard being had to its connection with the commercial, manufacturing, and mining enterprise of Scotland. He had no objection to the proposed establishment of such an institution at Edinburgh, but he hoped that Glasgow would not be forgotten, for the strongest possible testimony had been given that a museum there would be productive of great public advantage.

Mr. CARDWELL said, the claims of Glasgow, as the centre of industrial enterprise in Scotland, could never be overlooked by the Legislature, but it must be borne in mind that the establishment of museums involved considerable expense. At present there were none of the kind except in London, Dublin, and Edinburgh, and it must be borne in mind that there was a broad distinction between these and all other towns. What Parliament might do hereafter it was of course impossible to say.

LORD SEYMOUR said, he thought they should have more experience of these museums before they extended them to the other towns of the country. He wished to call the attention of the Committee to some of the items of the Vote, and particularly to the fact of there being two secretaries at Marlborough House, each at 1,000*l.* a year. He also wished for some explanation to be given with regard to the Vote of 8,500*l.*, for the Industrial Museum, Scotland.

Mr. CARDWELL said, he was very much inclined to think that at a future time, when the institution at Marlborough

House should have become consolidated, in the event of one of the secretaryships becoming vacant, it would be worth while to consider whether it would be necessary to fill it up. But it was quite a different thing when the department was first established. With respect to the Vote of 8,500*l.* for the Industrial Museum in Edinburgh, it would be seen that by far the greater part of it (7,000*l.*) was for the purchase of a site.

MR. JOHN MACGREGOR said, he also must urge the claims of Glasgow; he trusted that the privilege would be extended before long to other large towns, both in England and Ireland.

MR. HUTCHINS said, that the Committee upon Accidents in Coal Mines, of which he was the Chairman, found that many of those accidents arose from a want of scientific knowledge among the people, and he therefore recommended that mining schools, supported by grants from Government, should be established throughout the country. He would also suggest that persons should be placed in the different museums to give explanations of their contents to the visitors.

COLONEL BLAIR said, that the observations of the hon. Member for Glasgow (Mr. Macgregor) appeared to be that of a conscience-stricken man; for it was only two nights ago when that hon. Gentleman was the only Scotch Member that was found voting in favour of a proposition of the Chancellor of the Exchequer to take away the Snell exhibition from the Scotch University. He (Colonel Blair) would, however, admit that when a museum was to be established for the first time, it should be established in the capital of the country.

MR. JOHN MACGREGOR said, that the hon. and gallant Member had made a charge against him of an extraordinary character. He was prepared to defend the vote he gave the other night with regard to the Snell exhibition, in connection with the other proposition of the Chancellor of the Exchequer. In giving that vote he felt that he was doing the best for the University of Glasgow.

MR. W. WILLIAMS said, he willingly admitted the utility of this department, but he must call attention to the large amount which was expended on salaries, and particularly to the employment of two secretaries, one of whom he hoped, after the observations made by the noble Lord

(Lord Seymour) would be dispensed with when an opportunity occurred.

MR. CARDWELL said, the duties of the two secretaries were at the time extremely different, and the establishment had been carefully considered by the recent Treasury Commission.

MR. HEYWOOD begged to express his satisfaction at the Vote of 3,200*l.* for meteorological observations at sea. The American Government had for many years had a department at Washington for carrying on those observations, which had led to the shortening of several voyages, that from New York to South America having been shortened, he believed, by a fortnight.

MR. J. BALL said, he trusted that the Vote would be increased in future years, as no branch of science had of late years, progressed so rapidly as that of meteorology. He hoped that the observations made by different persons upon land as well as at sea would be collected, as, if that were done, he anticipated that in a few years, notwithstanding the variable climate of this country, we might know in this metropolis the condition of the weather twenty-four hours beforehand. [*Laughter.*] Science had in modern times achieved even more astonishing things than this, and therefore his anticipation was not so ridiculous as some hon. Gentlemen appeared to suppose. He hoped the right hon. President of the Board of Trade would not allow any trifling economical considerations to stand in the way of making a collection of all the valuable observations that were now being accumulated.

MR. DRUMMOND said, he hoped the hon. Gentleman's prediction regarding the progress of meteorological science would prove true, as it would be exceedingly useful for the farmer to know when he would be able to begin cutting his hay. Hon. Gentlemen spoke as if art and science were one and the same thing, but he certainly could see no connection whatever between them. He had not the least doubt that science was making rapid advances in this country; but as to the progress of art, he begged leave to question that extremely. In the first place, not knowing for themselves very much about the matter, people took hold of a French expression which they were unable to translate. They saw the phrase "*école de dessin*," and they translated it "a school of design." Now, *école de dessin* meant a drawing school,

and not a school of design; but what was worse, these people limited this French word *dessein* to mere pattern drawing in artificial flowers and muslins, and this was what they called their *école de dessein*. Well, then, but they bought a picture, and when they had given an enormous price for it they set to work upon it with a piece of pumice-stone, and spoilt it by rubbing the best touches of the painter all out. It was not so much this that he thought remarkable, but what most surprised him was that it should be seriously debated among people who professed themselves connoisseurs of the fine arts whether a painting was or was not really improved by this pumice-stone vandalism. It showed an intense amount of narrow ignorance on all such subjects that deluded the people with the idea that they could have any real taste for the highest art. Why, they might just as well try to force the Italians to like beef-steaks and porter, instead of light wine and macaroni. The thing was perfectly absurd. He would not divide the Committee on this Vote, but it was a piece of rank imposture; and he thought very little better of the previous grant for education, which was, like this senseless rage about art, a mere monomania of the day—but *vogue la galère*.

Vote agreed to.

(4.) Motion made, and Question proposed—

"That a sum, not exceeding 2,006*l.*, be granted to Her Majesty, to defray the Charge of Salaries and Allowances to certain Professors in the Universities of Oxford and Cambridge, to the 31st day of March, 1855."

MR. W. WILLIAMS said, though he objected to many Votes, he had never offered any opposition to those for the promotion of science and the arts except this, which he certainly objected to in the strongest manner, on the ground of the vast revenues of the Universities, amounting, he believed, to upwards of 300,000*l.* a year. He thought it was too bad for them to come to the House of Commons for a Vote of 2,006*l.* for lecturers in the University, and he should divide the Committee on it.

MR. J. WILSON said, this charge was originally on the civil list, but was removed, in 1831, to the Estimates. There was a clause in the Bill recently passed in that House which induced him to hope that the University of Oxford would take these charges on itself in future, in return

for Parliament undertaking to repeal certain stamp duties in such a case.

MR. HEYWOOD said, he objected to the Vote, even although it had been a charge that formerly appeared in the civil list; but he would recommend the hon. Member (Mr. Williams) not go to a division now, as he (Mr. Heywood) hoped that the whole subject of the University revenues would be made the matter of an inquiry before a Select Committee next year.

MR. W. WILLIAMS said, he should be glad to see the Universities take this charge upon themselves at once. He should, however, persist in his intention of dividing the Committee.

MR. CRAWFORD said, he wished to call the attention of the Committee to the fact that much dissatisfaction had been felt and expressed at the charge for the professor of civil law, which was only 100*l.* a year, being put upon the Estimates. Moreover, he understood that the Chair had been vacant for the last twelve months.

Question put.

The Committee divided. The numbers reported by the Tellers were:—Ayes 154; Noes 25; Majority 129.

MR. J. WILSON said, he wished to state, in consequence of the observations of the hon. and learned Member for Ayr, that the professor of civil law held his office against his own inclination, but at the particular desire of the University, and that his deputy, who discharged all the duties, received all the emoluments of the office.

Notice taken, that the Honourable Member for Ayr had given his voice with the Noes, and had voted with the Ayes:—Whereupon the Chairman directed his vote to be reckoned with the Noes:—Ayes 153; Noes 26; Majority 127.

House resumed.

House adjourned at a quarter before Two o'clock till Monday next.

## HOUSE OF LORDS,

Monday, July 3, 1854.

MINUTES.] PUBLIC BILLS.—2<sup>a</sup> Customs Duties (Sugar and Spirits); Excise Duties (Sugar); Warwick Assizes.

3<sup>a</sup> Gaming-Houses.

Royal Assent—Excise Duties; Customs Duties; High Treason (Ireland).

OFFICE OF THE SECRETARY OF WAR—  
THE FOREIGN OFFICE.

THE EARL OF MALMESBURY said, that according to the notice which he had

given, he wished to call the attention of the noble Earl at the head of Her Majesty's Government, to a few remarks that he was desirous of making with respect to a rumour which he had heard, and believed was generally prevalent, to the effect that the new Secretary of War, with his staff, was about to be put into the office now occupied by the Inclosure Commissioners in Whitehall Gardens. Of course it was necessary that the new Secretary of State should have every facility afforded him, and all proper room given to him, so as to be enabled to transact the very important duties connected with his office without inconvenience; but he thought he should be able to show that a great sacrifice of public interest would be made if such a change as that which this rumour reported as contemplated should really be carried out and effected; and he hoped that the noble Earl at the head of Her Majesty's Government would satisfy himself as to the correctness of his remarks by taking an opportunity personally to inspect the office of the Inclosure Commissioners and the documents that were there kept. This office was one of the most useful and most efficiently managed and arranged of our great public offices, and it contained within its walls upwards of 50,000 documents of the greatest value, and, among other papers, had about 20,000 tithe maps, all of which had been drawn up at the office of the Inclosure Commissioners, and were in every way carefully arranged, and correct even to the most minute particulars. Any of their Lordships might visit that office when they pleased, and in a few minutes could see, for a shilling, any of these maps, and for fifteen shillings could have any one of the maps traced, and thus obtain for a trifling sum what they could not in many instances otherwise obtain, except at a cost of 70*l.* or 80*l.* There were also most important documents in the office of the Inclosure Commissioners respecting the exchanges which had taken place under the Inclosure Act, the operations under which were now very simple and moderate—as a proof of which he could mention that in many cases the average expense of the office fees for the exchange of an estate amounted only to something like 4*l.* The Inclosure Act had, in fact, proved such a boon to the public generally that he should be sorry to see its operation in any way interfered with or disturbed. There was another department of the building which the Inclosure Commissioners occupied that was set apart

and made use of solely for the custody of original documents; and these documents were now so arranged that they could be at once inspected by applying at the office, and this at a very small and comparatively trifling expense. There were also other papers of great public importance, with respect to drainage and other matters connected with the Inclosure Act, which it had taken many months to arrange in their present excellent order—an order which could not be too highly commended, particularly as it was equally distributed throughout every department of the office. For these reasons he had heard with great regret the rumour that the new War Office was to be established in the building now occupied by the Inclosure Commissioners, and that the Inclosure Commissioners were to be turned out and put into a house in St. James's Square. In that case, all the documents to which he had referred would have to be moved out from the places where they were now deposited and so well arranged, and would have to be stored again in some new place, and be again arranged. Putting aside the trouble and inconvenience of moving them, it was to be remembered that, while the operation was taking place, it would be absolutely impossible that the public business could be carried on as usual, and it would be impossible for the public to make use of the documents in the office in the same way as they did now, at least for some considerable time; so that very great inconvenience would be felt in every way, and business of great importance checked and interfered with. It would be at least a year or eighteen months before any new office could be properly fitted up for the Inclosure Commissioners, and before the documents could be put in order and arranged. He wished also to suggest to the noble Earl at the head of Her Majesty's Government that, if any such change was really in contemplation, the greatest care should be taken that a place of safety and security was selected for the disposal and custody of these documents—an advantage which the present building so thoroughly possessed. If this were simply a question as to Whitehall Gardens or St. James's Square, there was little doubt that it would be much less inconvenient to send the new Secretary of State to St. James's Square than to remove the Inclosure Commissioners from their present house; and he believed the greatest mischief would follow if an endeavour was made to pull to

pieces, by interfering with it, this important office, which it had taken so much time to arrange in proper order, and to make it in every way so thoroughly efficient as it undoubtedly was. Taking, therefore, into consideration that the public would be prevented, for at least a year and a half or two years, from having access to the documents of this office, and from all advantage of referring to them, he considered that he was not asking too much when he requested the noble Earl opposite to consider the subject again, and also to make every inquiry to ascertain whether it would not be possible to find proper accommodation for the new Secretary of State without causing so much inconvenience as this removal of the Inclosure Commissioners would occasion. He (the Earl of Malmesbury) had no desire to trespass upon their Lordships' time at any great length, but while he was upon this subject he would take the opportunity of alluding to another matter which he considered might not improperly be brought before their Lordships' attention at the present time. He wished the noble Earl would state whether the Government intended to do anything with respect to repairing or rebuilding the Foreign-office. Their Lordships well knew that it was dreadfully out of repair. He had never seen anything worse than it had been for some years past. The roof looked as if it might fall at any moment, and certainly he must say that the building was not only an eyesore, but a positive disgrace to the Government and the country. Parliament in its generosity had, or supposed that it had, given to the Secretary of State for Foreign Affairs, the First Lord of the Treasury, the Chancellor of the Exchequer, and the First Lord of the Admiralty a house to live in and carry on their business. But such was not the case. Formerly, indeed, the Foreign Secretary had resided there, but that had not been since the days of Canning. In those days the business of the office did not exceed some 7,000 or 8,000 despatches per annum. Now, owing to its great increase, they amounted to 33,000 in a year. This, of course, necessitated an increase of clerks, and, in fact, the office was so filled and occupied that it could not be inhabited by the Secretary of State. That inconvenience, however, though great, being a personal one to the Secretary of State, he should not dwell upon. The duties of the Secretary of State for Foreign Affairs were in a cer-

*The Earl of Malmesbury*

tain way more onerous than those of any other Minister, except the Prime Minister. Other Ministers, whether hospitably inclined or not, were not positively obliged to go through a great quantity of receptions and entertainments, which the Foreign Secretary was compelled to do, and ought to do if he performed his duty. Their Lordships might remember some observations which fell from Lord Palmerston when he was examined before the Committee of the House of Commons upon this subject, and he thought they would agree with the noble Lord when he said that the Secretary of State for Foreign Affairs carried on almost as much business by conversation with Foreign Ministers in society as he did in his own room. What was the state of the Foreign-office now within its walls? There was only one room in which the Minister could receive company. The diplomatic corps alone amounted to upwards of 100 persons. He was at times obliged to invite distinguished foreign, and even Royal visitors; and it certainly was, he thought, the least that could be expected of this country that they should provide such a place of reception as other countries and other Governments possessed, when those illustrious persons honoured the Secretary of State with their presence. That office was in such a ruinous state that he recollected that two years ago the ceiling of the room in which the Secretary of State sat fell in. It could not be better now that it was two years older. The only room that was fit for receptions was, as his noble Friend opposite knew perfectly well, so unsafe that if he gave a party it was obliged to be propped up, or none of his friends would dare to go near the place. It was regularly propped up upon those occasions, and, in order to prop it up and to make those provisions which were necessary for safety whenever the Secretary of State gave a party, the whole office was unhinged. The two Under Secretaries were obliged to turn out of their rooms, and a great many other functionaries were compelled to do the same thing. The large room in which the private secretaries sat must be rearranged, and the whole office was turned upside down, because there was absolutely in that office no place where the Secretary of State could receive company, unless he turned out all official persons. Even then, he could not give a dinner at his office, because, as his noble Friend opposite must

be aware, there was no kitchen. Really, considering the generosity of this country and the liberality of Parliament in all our public works, and in the treatment of public functionaries generally, he thought it was very disgraceful that the Foreign-office should remain in its present state, an eyesore to passers-by and a discredit in the estimation of foreigners to the Government and the service. He should be extremely glad to hear that a new Foreign-office was about to be built, large enough to accommodate the staff of the office, and to provide for the safe keeping of its important documents; and he should be very glad, whatever salary Parliament might attach to the office of Secretary of State, that they should, in respect to their residence, be placed upon a footing similar to that adopted abroad, and have an hotel in which they should find everything necessary for them belonging to the public, and which, when they quitted, they should leave to their successors in the same state as when they had entered.

THE EARL OF ABERDEEN said, that when it was found expedient to separate the office of Secretary of State for the War Department from that for the Colonies, it of course became necessary to find some convenient position in which the duties of the new office should be carried on. Their Lordships would easily conceive that it was of great importance that the office of the Secretary of War should be in the immediate neighbourhood of Downing Street and the Horse Guards. There were only two buildings which could comply with that condition—the building called Gwydyr House, and that in which the Inclosure Commissioners carried on their business. Gwydyr House was occupied by the Poor Law Commission, which was in constant communication with the Home Office; and, as the Chief Commissioner was in the House of Commons, and the business was very much connected with the House of Commons, it would have been extremely inconvenient to remove that office to any distance. With the Inclosure Commissioners there was not the same inconvenience. They had no constant communication with any other office or with the House of Commons, and it was thought that they might, without any material disadvantage, be removed to a house which they themselves had strongly pressed on the Board of Works as peculiarly suitable for them in St. James's Square. Of course any

removal must be attended, more or less, with evils. He had not himself seen it, but he had no doubt that the description given by the noble Earl of the manner in which all those documents which he had described were arranged in the Inclosure Office was perfectly accurate. At the same time he could not believe that he was correct in supposing that it would require two years to rearrange those documents in a proper manner. He should have thought that two months would be more likely than two years. It was a mechanical operation which certainly could be performed, with care, without any very great injury to the documents, and with no danger whatever. However that might be, he believed that the matter had been very fully considered by the Treasury, and he should doubt if there would be any such inconvenience as the noble Earl had pointed out, more particularly when it was recollected that the building which was appropriated to the Inclosure Commissioners was the very one which they themselves had chosen before they were removed from Somerset House as peculiarly applicable for their office. He would, however, inquire more minutely into the amount of inconvenience and difficulty, and if the noble Earl's surmise should prove to be correct, he would see what alteration could be made in the arrangements. With respect to the other subject which had been referred to by the noble Earl, he must say that he had been but too accurate in the description which he had given of it. The state of the Foreign-office of this country was disgraceful, and even dangerous, as he well knew from experience many years ago. Of course, notwithstanding the annual inspection which it underwent by competent persons, with the view not to repair, but to ascertain its safety, it must become worse instead of better. The rents and settlements in the building were really quite alarming to look at. At the same time, although this was a subject which had engaged the attention of various Governments, he could not say that Her Majesty's Government were prepared to propose to Parliament at this moment any plans or any grant for a new building. Plans were in course of preparation for a new building, and they possibly might be completed in the course of the summer; but he was not prepared to say that the Government were now in a position to propose to Parliament the necessary grant for the purpose of carrying out those plans.

He hoped, however, before the noble Earl came into office again, that the place would be quite fit for his reception.

THE EARL OF ELLENBOROUGH said, notwithstanding the picture which his noble Friend has drawn of the dangerous condition of the Foreign-office, it had lasted as long as the Treaty of Adrianople. He doubted, however, whether either would last for twenty-five years longer. They had been told last year that they were to expect a great triumph of diplomacy, and he had ventured at that time to say that, if diplomacy should, indeed, secure the continuance of peace, he should think better of it than he had ever done before. Nothing, however, had occurred hitherto to improve the opinion which, during a long course of years, he had entertained with respect to the efficacy of pure diplomacy. But this he thought perfectly clear, that if diplomacy should achieve the triumph which had been predicted, and secure the tranquillisation of Europe, some building like that which had been referred to by the noble Earl should be erected in order to enable the Foreign Secretary to celebrate that triumph, and to entertain the hundred guests who had been alluded to by his noble Friend. But, in the meantime, he confessed that he concurred in the opinion which he understood to have been expressed by the noble Earl opposite (the Earl of Aberdeen), that it would be very improper to spend a large sum of money—it could not be less, he presumed, than 70,000*l.* or 80,000*l.*—in building a magnificent house for the accommodation of the Foreign-office at a time when they required the whole of their available income for the purpose of terminating the war. He could not help thinking, with all respect to the noble Earl, that that sum expended in war would be much more serviceable than the same sum expended in diplomacy, or in any purposes which might make diplomacy more brilliant. At the same time he entirely concurred with the noble Earl near him (the Earl of Malmesbury) in the objection which he had taken to the removal of the Inclosure Commissioners. It appeared to him to entail a great public inconvenience, at the same time that he saw no necessity for its removal. He must say that he thought a house in St. James's Square, or upon Carlton House Terrace, or any decent gentleman's house in that neighbourhood, would be entirely adequate to all the re-

*The Earl of Aberdeen*

quirements of the Secretary for the War Department, and of that branch of the public service over which the Secretary for the War Department was to preside. But there was another question besides that of the house in which he was to be located, and that was by whom he was to be assisted. He had ventured some weeks ago—before the separation of the War and Colonial Departments had been determined on—to suggest that what the new Secretary would require would be a military staff, and not a staff of civil clerks. The men who would be really useful to him would be military men—men who had seen service in different parts of the world, and in the various arms of which the service was composed—cavalry, infantry, artillery, and engineers—and who would be able to bring some recent experience to the assistance of the chiefs of the office. He thought this of the more importance, because he was quite sure that as long as our Constitution practically required that the officer at the head of that department should be a civilian, it was essential to his efficient control of the military departments under him that he should be assisted by military men of weight and authority in the country. If he should not be assisted by their advice—if he should not have the weight and authority which he would derive from the facility of constantly communicating with them—not as a Board, not as his equals, but as persons bound to advise him, and responsible for the advice which they would be bound to give—he was perfectly satisfied that all the advantages which the country expected to derive from the severance of the two offices would not be obtained. He had been desirous of saying something more in connection with the subject, but in the absence of the noble Duke (the Duke of Newcastle) he did not think it would be right to do so.

LORD REDESDALE hoped that nothing would be done in the way of building until some great design for laying out that portion of the metropolis in the vicinity of the Houses and of the Government offices was fairly considered, because it was impossible, when the building in which they were assembled should be finished in its full magnificence, that Parliament Street should remain in its present state. At present it really was not safe, owing to the narrowness both of the carriage way and footpaths. It was obvious, if anything were to be done to render the approach to the

Houses what it ought to be, that Parliament Street must be widened, and the whole of the ground known as King Street, now covered with extremely inferior buildings, made to form part of that approach. Nothing could be more inconvenient than the extremely scattered state of the public departments of this country. The expense of enlarging, raising the roofs, and so on, was very great, and he believed that real economy would be found to consist in getting all the buildings together in that spot, which was unquestionably a most convenient one. This might be done by continuing the line of new Government offices in a straight direction, from the corner of Downing Street to Great George Street, and pulling down the block of houses upon the west side of Parliament Street. Unless they did that, the approach to the new Houses of Parliament would be very inferior to the Houses themselves.

LORD CAMPBELL said, that he understood there was a plan in contemplation; but he hoped, at all events, that the courts of law at Westminster would not be permitted to remain in their present state. Something must be done, if it were only for the sake of the Houses of Parliament, for they considerably obstructed the completion of Sir Charles Barry's great plan, and their removal had been always contemplated. But something must be done, also, for the sake of the decent administration of justice. He wanted no splendour, no luxury, but he did want what was essential for the accommodation of the witnesses and jurymen; for at present there was no accommodation either for witnesses, jurymen, or judges. As a sample of the present state of things, he might mention that within the last ten days three of his learned brethren sitting in the Bail Court—he was himself absent at the time, in the discharge of public duties elsewhere—had been in danger of their lives; for there was an invasion, not of the Russians, but of a stench that was sublime. Their Lordships were aware that Mr. Burke stated, in his *Essay on the Sublime and Beautiful*, that an intense stench was a source of the Sublime, and this, to which he was alluding, really was a sublime stench, for, so intense was it, that the Judges were obliged to fly from it as from an enemy seeking their destruction. If any of their Lordships would go there they would be the better qualified to form an opinion on the subject. It was sublime, but it was pestiferous. He,

being chief of his court, was relieved from sitting there, but his learned brethren were obliged to go there very frequently, from day to day, and it really was absolutely necessary something should be done. From the situation he had the honour to occupy, he often came in contact with jurists from the different States of America, and he had been quite ashamed to show them where the sittings of our courts were held. Those persons had expressed their astonishment that, on coming to the mother-country, they had found the accommodation so very inferior, not only to that which was provided in New York, but to that which was to be found in other States of much less importance. He repeated that the Judges had no desire for luxury or for architectural ornament, but he did trust there would be a building provided, with something like proper accommodation and good ventilation, in which they might sit without danger to their lives.

LORD ST. LEONARDS said, accommodation might be found for the common law courts at Westminster, by locating the equity courts elsewhere, and transferring the common law courts to their rooms, without carrying out the scheme which he believed was contemplated in some quarters, but which Parliament had never sanctioned, for extending the new Houses of Parliament, at a very considerable expense, and eventually in closing Palace Yard.

THE LORD CHANCELLOR said, the Judges of the Exchequer Chamber, having complained of the inconvenience of sitting in the Bail Court, had applied for leave to sit in the Court of Chancery, and permission had immediately been granted, and he understood that they had been sitting there.

THE MARQUESS OF LANSDOWNE said, it had always been in contemplation that the buildings in which the courts of law were held should not remain after the Houses of Parliament had been completed, although there was of course great difficulty as to the time and manner of making arrangements for their removal.

THE EARL OF MALMESBURY wished to remind the noble Earl at the head of the Government that the choice of the Inclosure Commissioners to which he referred scarcely answered his remonstrances, as it was made previously to the last removal. If the noble Earl would but take the trouble to see the Commissioners themselves, and make inquiry as to the proposed arrangements, he was sure he would be

convinced that he was not exaggerating when he said that more than a year would be necessary to do over again all that would be undone, and there could be no doubt that in the meantime the business of the Commissioners would be very much impeded. With respect to the Foreign-office, which was now referred to the Greek kalends, all he would say was, that he feared lest some day it might come down and bury some Members of Her Majesty's Government in its ruins.

LORD BROUGHAM could not allow the references which had been made to the new Houses of Parliament to pass without observing, that he and those who thought with him had not changed the opinions which they had formed from the commencement of these buildings. They were by no means converted by the great success which had attended the execution of the plan, for they still retained the same mental objection as ever to the barbarism of having erected a Gothic instead of a Grecian building in the middle of the nineteenth century.

#### THE COURT OF CHANCERY.

LORD ST. LEONARDS rose, pursuant to notice, to call the attention of the House to the present state of business in the Court of Chancery in the Masters' Offices, and to move for certain returns. In the course of a discussion some time since he had taken occasion to observe, in answer to some strictures which had been made on the Court of Chancery, that he believed there was no court of justice in this country in which a decision could be obtained at an earlier period, or in which justice was more satisfactorily administered. This observation had led to a great deal of correspondence, and not a few persons had declared that there was no place in which greater delays took place than in the Court of Chancery. He had ascertained, however, that those complaints referred to the business in the old Masters' Offices; whereas his observations were especially addressed to the new state of things in the Court of Chancery, and he certainly had not in view the remaining matters in the old Masters' Offices. But, in consequence of communications made to him, he had been induced to look into that part of the subject, and to move for returns of all the matters which were depending in the Masters' Offices at the time he made the Motion. Those returns had been for some time upon their Lordships'

*The Earl of Malmesbury*

table; but, although he had been very anxious to save the public the expense of printing them, he had found it impossible, upon full consideration, to do so, and they would therefore be before their Lordships in a printed form in the course of a few days. They contained a complete index to cases at present remaining in the offices of those Masters who had not yet been relieved of their duties, the state in which they were at the time when the returns were made, and various details relating to them; so that they would form, when published, a complete book of reference, and he believed that their publication would lead more than any other measure to the speedy winding up of these cases. Their Lordships would remember that the Act of Parliament which abolished the Masters in Chancery allowed them to wind up the matters which were then depending before them; and in order to bring the old system as nearly as possible into harmony with the new, it gave them as nearly as might be the same powers for this purpose as were given to the Vice Chancellors. It directed them at the same time to take certain steps by which the winding-up of the estates remaining in their offices might be hastened, and, in the event of these steps not succeeding, to certify the fact to the Court. But the Act had, in this respect, either not worked well or had not been carried out. At the time the returns were made there remained in the Masters' Office, in round numbers, about 1,200 cases, many of which were very far from being ripe for final adjudication by the Court. This was undoubtedly a great evil, and it appeared to him to be absolutely necessary that there should be some strong measure in order to meet that evil, and to wind up these remaining cases, which were at once a clog and a reproach to the administration of justice. It reflected great credit on the Vice Chancellors that they had allowed some of the cases in the Masters' Offices to be transferred from the Masters to themselves in order to be worked out at chambers; but he confessed he thought there was great danger of the new system being obstructed in its working by the introduction of these old cases. The matters in the Masters' Offices were not matters which depended upon questions of legal construction; they were almost, without exception, matters of account and of inquiry, and of course the difficulty of taking such accounts and of prosecuting such inquiries was much

greater after a delay of ten or twelve years than if they had been prosecuted with earnestness when they were originally directed. Rules of practice had been made under the authority of the Act to avoid all unnecessary delay and expense before the Court itself; and the Masters were directed, as far as they could, to adopt these new rules in their offices, and carry out the new system; but he had been often asked why there were two systems—why the old business already before the Masters was left there, subject to any of the old rules, while the new business was put on an entirely new footing? The answer was plain. The new system was worked out by means of communications between the Vice Chancellor and his clerk, who, it must be borne in mind, was a chief clerk, and nothing more. He should have been glad if the Masters also could have been put in communication with the Judges; but they had represented that they had accepted their offices on an entirely different footing; that they were judicial officers of old standing, and had never been accustomed to communicate in this way with the Court; and that, if they were compelled to do it, their consequence would be lowered and their position materially affected. He had felt the force of this argument so much that he had yielded to it, and the Masters were not required to enter into personal communication with the Judges. Great improvements had, however, been made in the Masters' Offices. Short reports had been substituted for long ones, and the result had been a great reduction of expense. But it appeared that there was an inveterate habit among suitors of delay in the Masters' Office; it was not easy to alter habits, and when a case had been lingering for six or eight years, to make parties suddenly active and compel them to bring it to a close. Therefore it was, the Masters told him, that, although they had endeavoured very earnestly to put the Act of Parliament in force, the delays were not much less than before. Looking at the reports of the Masters, they had the satisfaction of knowing they were dealing with public officers willing and anxious to execute the duties of their office. As the report of Master Tinney was the first returned to the House, he had gone through it and extracted a brief statement of the position in which matters before him stood. The noble and learned Lord proceeded to read a tabular statement prepared from the report of

Master Tinney, giving the names of the causes, the date when reference was made, and how far the inquiry had advanced; from which it appeared that in charitable suits many had been fourteen years in the Master's Office and no scheme settled. Of suits for taking accounts, several had been in the Master's Office twelve years, and little done until forced on by the Master. Of administration suits there were instances of twenty-two years, seventeen years, and ten years having elapsed since the reference without any result. A remedy should be found to put an end to this state of affairs; and though he considered that the powers which they possessed would have enabled them to do a good deal more than had been done, still he thought that further powers should be given to the Masters to conclude these long-standing matters, and some additional aid afforded them to get through the business. As regarded the existing Courts, under the Vice Chancellors and the Master of the Rolls, a great delay in business was occasioned in the cases of passing accounts, as the clerk employed to look into and report on cases had also to pass accounts. In consequence of want of time to attend to them, these cases were not passed so regularly as they ought to be; he therefore proposed that a new officer attached to the Vice Chancellors and the Master of the Rolls should be appointed, whose duty should exclusively be to attend to the passing of accounts. If a particular officer were appointed whose duty it would be to investigate these cases, and to compel parties to account in due time, not only would much time be saved, but a great deal of money would be brought in which ought at once to find its way into the pockets of the suitors. The Masters had now 511 different causes in which accounts had to be passed; the time the passing of those accounts occupied prevented the preparing the necessary reports. If, as he proposed, a new officer were appointed, whose duty it should be exclusively to attend to the passing of accounts, he was convinced there would be not only great celerity in winding up cases, but a great deal of money would be brought in which ought to find its way into the pockets of the suitors. He hoped his noble and learned Friend the Lord Chancellor would agree in that suggestion. There were a good many cases which the Masters considered and treated as abandoned; but they had not been reported to the Court,

or included in the return. He very much feared many of those cases would be revived; and he proposed that the Masters should certify all abandoned cases to the Court, so that they should be declared closed and finally disposed of. He thought, also, that power should be given to the Master to refer accounts to accountants. They had given that power to the new system, but not to the old system, and he thought it most desirable to extend it, so as to wind up many of those suits which had been standing still for eighteen or twenty years. A further delay was occasioned under the present mode of proceeding in conveyancing matters. Under the Acts recently passed, the Lord Chancellor had power to appoint a certain number of barristers as conveyancers of the Court, to whom reference was made of questions of title for their advice and settlement; and he proposed that the Masters should, when they required assistance, have the same power of referring matters to the conveyancers of the Court. It was not, indeed, clear that they did not already possess that power. He might observe that it was impossible that gentlemen who had been appointed conveyancers of the Court should retain that appointment unless they used that reasonable despatch which was consistent with the Act of Parliament, for, whether the delay was in the conveyancers' chambers, or in the chambers of the Judge, the mischief was the same. Then, he thought provision should be made for intricate matters of abatement and bankruptcy now before the Masters, which he explained. He proposed, further, to give a discretion to the Masters to admit accounts on such evidence as they might deem satisfactory, although not such as, in strictness, the Courts might require. There was a class of cases in a singular predicament, such as they ought not to be left in. The retiring Masters transferred bodily what causes remained in their offices to the remaining Masters, and in several instances no papers had been transferred. The consequence was, the Masters had the name of the case and the names of the suitors, but not a single paper; and, therefore, he proposed that the Masters should advertise all those cases, calling on the parties to bring in their papers by a certain time. Lastly, he proposed that the Lord Chancellor should have power to appoint additional clerks temporarily to assist the Masters. He had not the slightest doubt *that the calling the attention of all parties*

*Lord St. Leonards*

to the state of matters in the Masters' Offices had already led to much despatch, and though at one time he thought he should have to propose that the Masters should be formed into a court, and should hear one by one, in turn, the causes remaining, and make orders upon each of them, he would refrain at present from making such a proposal, in the confident hope that when they met next Session the return from the Masters would be of a satisfactory character. He begged to move for—

“1. Returns by the Masters of the Court of Chancery of all Causes and Matters not included in former Returns made by them in pursuance of the Order of the 24th of March last, which they have treated as abandoned. And, 2. Returns by the Masters of the Court of Chancery on the 1st of February, 1855, in continuation of the former Returns, made by them in pursuance of the Order of the 24th March last, stating the further Cases in which Reports shall have been made since the former Returns.”

He hoped the Lord Chancellor would turn his attention to this subject, and bring in a short Act embodying such of the provisions he had mentioned as he might think necessary, to give full and complete powers to wind up these matters.

THE LORD CHANCELLOR said, he was sure no Member of their Lordships' House would feel more indebted than he did to the noble and learned Lord for the Motion he had made, and for having called attention to this subject. And if he did not entirely concur in the suggestions made for remedying the evil, it was not that he felt less strongly than the noble and learned Lord the necessity of some remedy. There was one matter which he thought the public ought to understand, and it was this—that, after all, this was more a nominal than a real scandal to the Court. The Court was perfectly open, and the statement of his noble and learned Friend showed the truth that all the delay was not the delay of the Court, but of the parties. It happened in these complicated suits—what happened out of suits and in their own experience—that when parties were involved in a very troublesome matter of accounts, they became weary, and would not proceed. Since the alteration, two years ago, the Masters were not only not instrumental to the delay, but in every possible manner tried to force on the parties to bring the suits to a termination. The difficulty was, they could not get the parties to come forward. Under the Act of 1852, when parties were in default, and

would not go on, the Masters had the power of reporting them to the Court. In conversation with the Masters he had asked why they did not exercise their power, and the invariable answer he had received was, that if they did summon the parties and threaten to report them in a week, they begged for longer time, and declared it impossible to proceed in the time named. The Masters yielded to these solicitations on a variety of considerations, and amongst others there was this—that in punishing a party for not going on they might be punishing not the party guilty of the delay, but a number of innocent parties, not parties to the carrying on the cause, but interested in the results. For instance, a decree being made to take account of the property of a deceased person, and to apply it to the payment of his debts, the course was to advertise in the papers for the creditors to come and prove their debts. The creditors were stopped from taking any proceedings on their own account—the person obtaining the decree was the person to prosecute it, and the creditors were entirely dependent on him for the diligence with which the proceedings were carried on. Thus, if the Masters were compelled to dismiss suits, great injustice might be done to the unfortunate creditors who had proved their debts, and who might be willing and ready to proceed. He therefore did not think that the Masters would be quite justified in acting with great stringency. After all, there were no individuals in the three kingdoms who were so much interested in getting causes wound up as the Masters, because the moment that was done they were released, and in the full enjoyment of their salaries for the rest of their lives; and, therefore, in every case in which they abstained from exercising the power which they possessed of compelling parties either to go on or to have the cause, as it were, destroyed, they acted directly against their own interests, and only from a sense of public duty. He was inclined to agree with his noble and learned Friend that the proper business of the Masters was interfered with by passing receivers' accounts; but the evil could not be remedied without the appointment of one new officer at least. He also thought that abandoned causes should be certified to the Lord Chancellor, and dealt with in the way suggested by his noble and learned Friend. He was not certain that he had not already the power to refer to an accountant; but if he had not, it

was quite right that such a power should be given by the Legislature. At the same time he might state that it was only in the case of intricate mercantile accounts where a reference to an accountant was at all important; and the truth was, that, although the Judges had at present the power to make such a reference, yet they found it necessary to exercise it only upon rare occasions. With regard to the power to refer to conveyancers, he thought that such references were made at present, but no harm would be done by the power being given by the Legislature. So with respect to the power of the Judges to bring parties before them for bankruptcy and cases of that sort. It was within the power of the Lord Chancellor to advertise causes in which there were no papers, and that course would continue to be adopted. As to the power of the Lord Chancellor to appoint additional clerks, he believed that under an existing Act the Lord Chancellor was authorised to appoint such officers as he might consider necessary; but he thought that the power referred to by his noble and learned Friend had better be given by the Legislature, because it might be a question whether or not the powers already possessed by the Lord Chancellor included the appointment of additional clerks. It appeared to him, however, that if the Masters were directed to make returns to the Court twice within the year, or every term, setting forth the state of the causes, and if such returns were regularly laid upon their Lordships' table, more good would be done than if a mere written document were hung up in the Court of Chancery. They might depend upon it, that the real difficulty was this—that it was not the interest of those who were conducting the suits to devote that extent of time and attention to them to which they were entitled. He hoped he would not be understood as throwing out improper insinuations or reflections upon any class of men. He believed that there was not a more honourable or a more useful body of persons than the solicitors; but of course there were solicitors of every sort and grade, and undoubtedly a solicitor was much more profitably employed when engaged in dealing with new causes than when involved in the unremunerative and irksome details of old worn-out suits. That was the real source of the delay which occurred; but by the publication at certain fixed periods in every year of the state of all causes, the parties interested would see

what their agents had done, and the latter would be shamed into a more vigorous course of action—although it was but fair to state, in favour of the solicitors, that they were frequently unable to proceed for want of funds. Upon the whole, he thought the suggestions of his noble and learned Friend were most valuable, and would take them into immediate consideration, with the view of seeing what could be done by way of legislation in the present Session, to provide an effectual remedy for the evils complained of.

Ordered to be laid before the House.

House adjourned till To-morrow.

## HOUSE OF COMMONS,

*Monday, July 3, 1854.*

MINUTES.] PUBLIC BILLS.—1<sup>o</sup> Militia (No. 2); Commons Inclosure (No. 2); Standard of Gold Wares; Registration of Bills of Sale (Ireland); Savings Banks.

2<sup>o</sup> Episcopal and Capitular Estates Management; Vaccination Act Amendment.

3<sup>o</sup> and *passed*—Public Revenue and Consolidated Fund Charges; Poor Law Board Continuance; Union Charges Continuance; Indemnity; Insurance on Lives (Abatement of Income Tax) Continuance; Public Libraries; Merchant Shipping; Linen, &c., Manufactures (Ireland).

### PUBLIC REVENUE AND CONSOLIDATED FUND CHARGES BILL.

Order for Third Reading read.

MR. SPOONER said, he begged to ask Mr. Speaker, whether that was the time for proceeding with the Amendment of which he had given notice?

MR. SPEAKER said, that the hon. Member could not bring forward his Amendment until all the clauses of which notice had been given were brought up.

SIR HENRY WILLOUGHBY said, he rose to call attention to the important changes proposed by this Bill. He alluded more particularly to the operation of the second clause, which would effect a very material change in the financial accounts of the kingdom. He brought this subject under notice, in the absence of the hon. Member for Montrose (Mr. Hume). If he understood the clause correctly, it would alter the time for the production of the public accounts from the 5th of January to the 13th of June—a period when the Session was generally about to close, and when it would be impossible for hon. Members to consider them. If such a change should take place, he believed that a very

*The Lord Chancellor*

serious difficulty would arise. He understood the hon. Secretary to the Treasury to say it was his intention to introduce certain words into the clause, with a view of modifying this provision; but he (Sir H. Willoughby) did not think that the words proposed by the hon. Gentleman would have the effect of remedying the evil to which he referred. If the clause were agreed to, the public accounts could not be audited and printed before the month of July, when it would be utterly impossible for hon. Members to consider them with a view to a financial discussion. He trusted the hon. Gentleman would either amend the clause or withdraw it, and bring in a new one.

MR. J. WILSON said, he was afraid that the clause could not be amended. He believed it must either be adopted as it stood, or be altogether omitted. The object of the clause was to take powers to harmonise the annual accounts of the public revenue and expenditure regularly presented to Parliament with the Parliamentary financial year. The two were at present discrepant; the annual accounts representing one quarter of the preceding year with three quarters of the current year; whereas they ought to range over precisely the same period as the length of time for which the Estimates were prepared, and the Votes of that House taken.

MR. VINCENT SCULLY said, he had intended at one time to move that the third reading of the Bill be deferred till that day six months; but he would not persist in that intention, hoping that, after the Bill had been read a third time, its details would be reconsidered and revised when the Amendments came to be discussed upon the question that the Bill do pass. He did not object to the general principle of the measure, if that principle were fairly carried out, with certain modifications in the schedules appended to the Bill; but he was sure the measure was not now in a shape in which it should be passed by that House and sent up to the House of Lords. He considered that the schedules had been drawn in a very careless and slovenly manner. He also considered that the Bill did not sufficiently guard and protect vested interests. It would, in particular, deal unfairly with persons who held offices during pleasure or good behaviour, and persons who were in receipt of superannuation allowances—all of whose cases were to be included in Schedule B, and left to depend for their

incomes upon the annual Votes of that House. An instance of the partial operation of the Bill was, that the English law officers were excluded from it, but that all the Irish law officers were included in the schedule. The officers of the English Court of Chancery were not in the schedule at all, and the answer to that was, that they were paid entirely out of the suitors' fee fund. But they would find that all the fees in Ireland went into the Consolidated Fund, while those of the English courts did not contribute a farthing to it. The Judges of the English courts, the Lord Chancellor, and the Master of the Rolls, could regulate the fees just as they pleased for the purpose of paying salaries, and why, he asked, should the Irish courts not be placed in the same position? That was a gross and glaring injustice towards Ireland, which could only be perpetrated by reason of the defenceless and unprotected position of the sister country in that House. He strongly objected to placing the Irish law officers, as this Bill would do, under the thumb of the Treasury. He was not now advocating the cause of Gentlemen with whom he was connected, or for whom he had any favour or affection. Many of the Irish law officers were individuals who were his political (and as a necessary consequence in a country like Ireland) also his personal enemies; but he did not see why the salaries of law officers in Ireland should be made to rest upon so uncertain a tenure as this Bill proposed, and thus be exposed to the tender mercies of the hon. Member for Lambeth (Mr. Williams), or any other hon. Member who professed great friendship for Ireland; and he thought this especially invidious and unfair when the incomes of the English law officers were put beyond the reach of any such danger. He therefore hoped that this portion of the measure would be carefully reconsidered and amended.

MR. W. WILLIAMS said, he considered that the present measure was one of the very greatest importance, and the Government ought not to run the risk of losing it altogether, in order to afford some sort of protection to the Irish courts. The hon. Gentleman the Member for Evesham (Sir H. Willoughby) had urged as an argument against the measure, that much time would be taken up annually in examining the new Estimates; but he would refer him to the manner in which the Votes for all the great departments of the State were passed. They included hundreds of thousands of pounds, and he ventured to say the indi-

vidual items of the salaries never gave any trouble to the House. He could also assure the hon. and learned Member for Cork County (Mr. V. Scully) that no one, he believed, in that House would wish to deprive Irish officers of their rights, and, when any case of personal claim was brought before them, they had always been willing to do justice. There was no necessity, therefore, for introducing those petty affairs, and making stipulations, with the object of securing to the Irish officers their salaries. He would also beg to tell the hon. Member for North Warwickshire (Mr. Spooner) that if he should be successful in the Motion of which he had given notice, he might be the means of throwing out one of the most beneficial financial measures that had been proposed, and one which they might never again have the opportunity of passing. He hoped the hon. Gentleman the Secretary of the Treasury would withdraw the clause, notice of the introduction of which had been given, and then, perhaps, the hon. Member for North Warwickshire would probably not press his Motion.

LORD JOHN RUSSELL said, he thought his hon. Friend (Mr. Williams) was mistaken in supposing that the Motion of the hon. Member for North Warwickshire was at all contingent on the clause proposed to be introduced by his hon. Friend the Secretary to the Treasury. As he understood the Motion of the hon. Member for North Warwickshire it was this, that if the House sanctioned the principle of taking sums from the Consolidated Fund and transferring them to the Votes, then he should bring on his Motion. If that was so, the clause of which his hon. Friend (Mr. Wilson) had given notice did not apply to that Motion. He agreed with the rest of the speech of his hon. Friend (Mr. Williams), and he thought his hon. Friend was right in saying that the House had always behaved with great justice and fairness to all persons who claimed to be holders for life of salaries. He did not remember a case where it was shown that there were good grounds for a person expecting a salary for life, in which the House interfered in an arbitrary or capricious manner to deprive him of it. There may have been such instances, and it might be necessary to introduce this clause, but it was not rendered necessary by the proneness of that House to deal with salaries for life in any but the fairest manner. The proposition of the hon. Member for North Warwickshire, however, went on a

very different principle. The Bill was based on the principle of getting accounts of all payments out of the revenue before the House; it was an important financial measure, and, though there might be difficulties in carrying it into operation, it had been much urged on the Government by hon. Gentlemen on that side of the House, especially by the hon. Member for Lambeth (Mr. W. Williams). His right hon. Friend the Chancellor of the Exchequer (whose absence from indisposition he much deplored) had bestowed likewise great care and labour on the Bill. The Vote to Maynooth was a totally different question. It was a great question of State policy, whether the Vote for Maynooth should be brought forward in the yearly Estimates or placed on the Consolidated Fund. That was a question which had been brought before the House years ago by Sir Robert Peel, and after warm debates and great contests in that House and in the country, Parliament had deliberately sanctioned the grant, and declared that it should be placed on the Consolidated Fund, and not be made the subject of a yearly contest. If that decision was to be reversed, it should be done in the same way as the matter was dealt with by Sir Robert Peel; it should be done by a Bill, thus giving the country time to consider the matter, and the House the opportunity of debating the question on the several stages of the Bill, and of approving, if they thought fit, or rejecting it if they thought that those who agreed with Sir Robert Peel had come to a wise and right decision. For his part, he (Lord J. Russell) thought it was a right and wise decision, and he had supported Sir Robert Peel on that occasion, notwithstanding the great opposition that was made by the country against that proposition. He believed the decision was one of wise and sound policy, and ought not to be reversed. He would say more; if the decision then made should be reversed on the third reading of this Bill, it would be then the duty of the Government to withdraw this Bill. It was for the House to consider whether on the third reading of this Bill they would adopt a principle that was at variance with all they had done of late years, but for his part he begged to give notice to the hon. Gentleman that his Motion was one that might be fatal to the Bill.

MR. SPOONER said, all the schedules in the Bill rested on the ground that the grants were all to stand on the same footing as regarded the Consolidated Fund.

*Lord J. Russell*

Therefore there was no reason whatever why, when the whole question was opened as to what charges should be made upon that fund, and what charges upon the Estimates, that they should not consider the propriety of restoring this Maynooth grant to the Estimates, where it had always been up to the period when the change was made by Sir Robert Peel. The argument of the noble Lord was, that, after great discussion and long deliberation, that grant had been fixed on the Consolidated Fund by Parliament; but the reasons assigned by Sir Robert Peel why it should be so charged had been disproved by the result. In 1845 the whole argument of Sir Robert Peel was, that while he fully admitted it would be carried against the wishes of the people of this country, he was satisfied he was right in carrying it, and he believed that the country would come round to his view. Sir Robert Peel had further argued that it would prevent perpetual discussion to place the grant on the Consolidated Fund. But was that object attained? Had a single year passed since then without long discussions on the subject? That object had, therefore, entirely failed; and it furnished, consequently, an additional reason why the grant should not continue on the Consolidated Fund, but be subject to annual revision of Parliament. The strongest reason of all, however, against its continuance on the Consolidated Fund was the fact that it had been placed there to stifle the voice of public opinion. He (Mr. Spooner) called upon those who were opposed to the grant to say whether it should remain upon the Consolidated Fund or not. He called upon the guardians of the public purse in that House, and who were jealous of the money taken from the people's pockets, to say whether this Vote should be taken away from the annual supervision of Parliament. How could they consistently refuse to aid in this object? He would also call upon the noble Lord (Lord J. Russell) to aid in this object. He said the Vote was right. Then why was he afraid of discussion? The more a subject was discussed the more right was made manifest; but the fact was, the noble Lord and his party were afraid of discussion. The right hon. Secretary at War had, on a former occasion, made use of an expression to him (Mr. Spooner) which was hardly courteous, but which he supposed was Parliamentary, as it was passed without reproof. When he (Mr. Spooner) objected to pay priests acting as chaplains for gaols, the right hon. Gentleman asked why he

had so long tolerated their payment as Army chaplains, and said the reason why he did not attack that Vote was, that he did not dare to do so. That charge, as far as he (Mr. Spooner) was concerned, had no foundation. He had not known that the Roman Catholic chaplains with the Army were paid by specific Vote, and he now only knew that they were paid out of a grant for educational purposes in the Army. If he had known it, he would certainly have dared to bring the question before the House; and he certainly should dare it next Session. Under these circumstances, he retorted the taunt of the right hon. Gentleman, and told him that the Government would not dare submit the Maynooth grant to the opinion of the public, as expressed by their representatives in Parliament. He would tell him further, that if he did so, the Protestant feeling of the country being once roused, that grant would not stand for a moment. Referring to that part of the Vote for Maynooth left open by the late Sir Robert Peel for the repair of the buildings of Maynooth, he (Mr. Spooner) remembered well going out against it in a very small minority, when first it came before Parliament; but by dint of perseverance, aided by an awakened public opinion, which could not be misunderstood, he had the satisfaction of ultimately seeing that Vote abandoned. In like manner it was his conviction that, if the grant in question were unshackled by the Consolidated Fund, the Government would be compelled, by public opinion, to abandon it also. Public opinion had, moreover, compelled the Government to advise the Crown to issue a Commission to inquire into the system of education at Maynooth. The Report of that Commission had been kept back; but that was another reason why, by excepting the grant from the Consolidated Fund, the House would be in a position to meet the recommendations of that Commission, whatever they might be, in the matter. The hon. Member for Lambeth (Mr. W. Williams) asked him (Mr. Spooner) to withdraw his Motion, and not to throw out a useful Bill; and the noble Lord proposed that he (Mr. Spooner) should move for leave to bring in a Bill on the subject. If he (Mr. Spooner) attempted to bring in a Bill, he would be met by hon. Gentlemen talking on Wednesdays till six o'clock at night. Indeed, he had heard of hon. Members in that House expressing their readiness to talk any number of hours that were wanted. That was the way he would be met if

he brought in a Bill. One of the reasons Sir Robert Peel gave for the transfer of the grant from Parliament to the Consolidated Fund was, that a better education would be given, and a better set of priests obtained. The history of Ireland since that period, however, disproved that argument, and the records of the Election Committees of that House showed the opposite fact. Had the priests, he (Mr. Spooner) would ask the House, ceased to be political agents? Had they ceased to exercise a pernicious power over the poor slaves of superstition? Were they better educated? No. The measure had failed in all these points; it was, therefore, useless. It had been adopted on unconstitutional grounds—it was unconstitutional in itself—and the result had shown that it was nothing more and nothing less than an attempt to muzzle public opinion. The hon. Member for Lambeth asked him (Mr. Spooner) not to throw out a useful measure; he (Mr. Spooner) could not be swayed in his course by any such argument. The Government had chosen to open up the whole question of the Consolidated Fund without any necessity; and in the discharge of his duty he (Mr. Spooner), be the result what it might, would press his Motion to a division. The Bill had been introduced on the 2nd of February; it had lain dormant until the 29th of May; it was delivered to Members on the 1st of June; and it was read a second time on the 2nd of June, between one and two o'clock in the morning. When was the opportunity for opposing it? Indeed, had it not been for the vigilance of his hon. Friend the Member for Evesham (Sir H. Willoughby), he (Mr. Spooner) should not have known the nature of the Bill, the Chancellor of the Exchequer having described it as one merely affecting certain fiscal regulations which were proposed to be made as regarded salaries. When the proper time came he (Mr. Spooner) would, therefore, move his Amendment, and take the sense of the House on it. The noble Lord would of course deal with the Bill as he chose. All he (Mr. Spooner) sought to establish was, that the Maynooth grant should be dealt with in the same manner as the other matters in the Schedule B, and that it should not form the exception to the principle of the Bill. This grant to Maynooth never ought to have been removed from the Estimates, and he should take care that, if possible, before long it should be placed there again.

MR. J. O'CONNELL said, the hon. Gentleman had urged as a pretence for making this proposition that religious disputes continued to take place, and certainly if the object had been to obviate religious discussion, that object had not been attained.

Bill read 3<sup>d</sup>.

MR. J. WILSON then brought up a clause with reference to the period at which the financial accounts should be annually prepared, the object being to have the annual accounts made up on the 5th of January, instead of on the 5th of April, as had hitherto been the practice.

MR. HENLEY had great doubt with respect to the way in which the proposed system would work, and begged to know if the period of making up the statistical accounts would be also changed?

MR. J. WILSON replied, that there was no intention to make any alteration with respect to the shipping or trading accounts, and the only object in making the alteration with respect to the financial accounts was to make them correspond with the years to which they applied. The accounts would be published for the year after the 5th of January, and by that means they would have the whole of the information connected with the financial accounts at an earlier period than formerly. They would receive in January the information which previously was not made known until April.

Clause *added* to the Bill.

MR. VINCENT SCULLY said, he would now move the Amendment of which he had given notice. Having already explained his views on this matter, he trusted the Secretary of the Treasury would adopt them. He suggested that the present rights of all holders of office should not be interfered with, and also that there should be no interference with the retired holders of office. There were holders of office who did not hold during life or good behaviour, whose interests would be seriously affected if their salaries were to come annually under the supervision of the House.

Amendment proposed, in page 2, line 15, after the word "shall," to insert the words "but without prejudice to the vested rights of any present holders of office under existing Acts of Parliament, charging their salaries upon the Consolidated Fund."

Question proposed, "That the words *proposed* to be left out stand part of the *Bill*."

MR. J. WILSON said, he hoped his hon. and learned Friend would not persist in his Amendment, but would adopt the words which had been carefully drawn up for the purpose of accomplishing what he believed to be the feeling of the House—namely, that the existing holders of office should not be prejudiced by the Act. The only difference between his clause and the hon. and learned Member's was that the hon. and learned Member left out the words "during life or good behaviour."

Amendment, by leave, *withdrawn*.

MR. J. WILSON then moved the following proviso:—

"That where the salary of any office holden for life, or during good behaviour, is fixed by or under any Act of Parliament, and charged on or payable out of the said Consolidated Fund, nothing herein contained shall, so long as the present holder of such office continues to hold the same, affect the charge on the said Consolidated Fund of the salary which at the time of the passing of this Act is payable in respect of such office."

*Agreed to.*

MR. VINCENT SCULLY then moved to leave out from Schedule B the words "salaries and allowances of officers, excepting Master of the Rolls."

MR. J. WILSON said, it had been much argued whether the Masters of these courts were judicial officers or not. It was the principle of this Bill that the salaries of all judicial officers should be left charged on the Consolidated Fund. In consequence of the great difference of opinion whether Masters were judicial officers or not, they had recourse to very high legal authority, and they were advised that Masters of all the courts might be considered as judicial officers. He therefore proposed to make an exception in favour of the Masters of these courts as well as of the Masters in the Court of Chancery. The officers in the Court of Chancery in Ireland were paid out of the Consolidated Fund. Those in England were paid by fees. It was the intention of Government to pay the officers in England from the public Exchequer, but the existing officers, those who were now living, would of course be protected in the same way that this Bill protected the officers in Ireland. At present the officers in England were virtually paid from the Consolidated Fund, inasmuch as their salaries were charged on certain fees, and, if there was a deficiency, it was to be made up from the Consolidated Fund. When they had provided that the existing officers

should in no way be prejudiced by the operation of this Bill, they had gone as far as any existing person could have a right to ask them, for surely it was within the scope of the Treasury and of that House to consider not only whether an office that fell vacant should be filled up at all, but, if filled up, what salary should be attached to it. Government thought that the whole of these establishments should annually be brought under the consideration of that House, in order that public opinion might from time to time be brought to harmonise with these establishments, and that the Executive Government of the day might, from the discussions which would take place, know how to deal with these appointments as they arose.

MR. W. WILLIAMS said, the salaries of Masters in Chancery in England were 2,500*l.*, and he wanted to know what was the amount of the salaries of masters in Chancery in Ireland?

MR. I. BUTT said, that before the question was put, he wished to state his reasons for voting with the hon. and learned Member for Cork. He did not mean to discuss this as an Irish question. He despaired of making the hon. Member for Lambeth (Mr. W. Williams) understand the position in which the officers of the Irish courts of justice were placed by this Bill. He would not attempt it; but he hoped the House would understand that the Bill placed the Irish officers in this position different from the English. The Irish officers were to be dependent upon the annual Vote of that House, and the English officers were not. This was a plain and intelligible distinction. The fees of the courts of justice in England were retained by the courts of justice to pay the salaries of their officers; in Ireland the very same fees were paid into the Treasury. But they were told, that in future years the same principle would be applied to England. This increased his objection to the clause. The House must understand that they were about to pass a Vote infringing on the great constitutional principle of the independence of the courts of justice. The salaries of all the officials necessary for the administration of justice in every one of the courts was to be made dependent on the annual Vote of that House. They must remember that two parties must concur in such a Vote; the Treasury must propose it, and the House must pass it. The effect, therefore, of

transferring to the Estimates the provision for the establishment necessary for the business of the court was to make the existence of the court depend, first, upon the fiat of the Treasury, and next upon the Vote of that House. This was a direct infringement of the good old constitutional principle that the courts of justice ought to be alike independent of the Crown and of popular control, and he earnestly implored of the House not to violate that principle of making all the officers of each court dependent on an annual grant.

Question put, "That the words proposed to be left out stand part of the schedule."

The House *divided*:—Ayes 138; Noes 111: Majority 27.

MR. VINCENT SCULLY said, his previous proposition had reference only to the Court of Chancery. His further proposition was somewhat different. The English law officers in the common-law courts were practically omitted from the schedule, and if it had been intended to deal with them in the same spirit as with Irish common-law officers the same words would have been used. It was no answer to tell him that the English law officers were paid out of fees; the plain fact was, they were not in the schedule, and he would move that all the law officers of all the Irish law courts be exempted. He would not trouble the House to go to a division.

Amendment proposed in Schedule (B), to leave out the words "Ditto of the Officers and Clerks of the Court of Queen's Bench in Ireland."

MR. J. WILSON asked the hon. Member to take the division upon the reference to the officers of the first court (Queen's Bench), on the understanding that that division would apply to all the other courts.

MR. VINCENT SCULLY said, he had no objection.

MR. I. BUTT said, he trusted that the hon. and learned Member for Cork would again take the opinion of the House upon this question. The proposal was now raised in its most objectionable form. The question they were now discussing was as to the officers of the Queen's Bench; that was the supreme court of criminal jurisdiction. He appealed to the noble Lord the Member for the City of London, was it right to subject the whole ministerial staff of that high court to an annual revision by the Treasury and the House of Commons? Suppose the Court of Queen's

Bench to make an unpopular decision. When the Estimate for the salaries of the officers came on, that decision would be canvassed in that House; nay, he was at liberty to put the case of that House refusing the Vote, and leaving the court without an officer to record its decisions. Upon what other principle, then, did they make the salaries of the Judges independent of Parliament, except that such consequences were possible? But did they really pay such a bad compliment to a Judge that they supposed he would be influenced by the fear of a hostile Vote restricting his own emoluments, and that he would not be influenced by the apprehension of one that would destroy the administration of justice in his court? If each court were to depend upon the will of the Government and of that House from year to year for the means of carrying on their business, that court could not be said to be independent of the Crown and the House of Commons. And they were applying the principle to the Court of Queen's Bench, the Court of all others that was called on to decide between the Crown and the people. This Court tried political libels and great constitutional questions. The times might come again when that Court would discharge those duties in the midst of excitement and agitation. Would it be fitting that at such times the salaries of all the officers of the Court should be the subject of annual discussion in that House—would it be fitting that it should depend upon the pleasure of the Treasury whether any provision at all should be made for them in the Estimates? Could such a court be independent either of the Crown or the House of Commons? He warned the House that it was a mockery to make the salaries of the Judges independent of the Estimates, if at the same time they left the whole machinery of the court dependent upon them. The true principle was to provide all that was necessary for the administration of justice in the courts of law, independent of the Crown or of the House of Commons. For these reasons he would vote for the Amendment, and he earnestly hoped, for the sake of a great constitutional principle, the result of the division would be different from the last.

LORD JOHN RUSSELL said, he trusted the House would not be carried away by any extreme case being put. He could not think it reasonable to suppose, as had been done by the hon. and learned Mem-

*Mr. I. Butt*

ber who had just spoken, that the House would by any vote deprive all the officers of a court of law of their salaries, although if it were found that excessive salaries of 2,000*l.* or 3,000*l.* were paid where 1,200*l.* or 1,000*l.* would be sufficient, then there might be good ground for interference.

MR. MALINS said, he thought the enactments of the Bill went to enforce a principle that infringing the due administration of justice. The Government of the day was responsible for the appointment of the officers in question, as well as for the amount of their salaries, and if the Judges should find themselves without their staff the whole administration of justice would fall to the ground. A great principle was at stake—whether those engaged in the administration of justice were to be subjected to the caprices of the House of Commons.

MR. DRUMMOND said, the consequence of this Bill would be that they would have an annual debate upon every single point connected with it. If there was a part of the United Kingdom to which this principle ought not to be applied, it was Ireland—the very part to which it was now proposed to apply it.

Question put “That the words proposed to be left out stand part of the Schedule.”

The House divided:—Ayes 121; Noes 100: Majority 21.

MR. VINCENT SCULLY said, there were two or three other Amendments that he had given notice of. The taxing officers in Ireland were included in the schedule; those in England were not.

MR. J. WILSON said, before the hon. Member proceeded, he had an Amendment to move, which was, that the words “excepting the Masters” be inserted in the schedule after the words “Courts of Queen's Bench, Common Pleas, and Exchequer.”

*Amendment agreed to.*

MR. VINCENT SCULLY said, there were some other Amendments upon which he did not wish to take the opinion of the House, but to which he thought attention ought to be directed. The taxing officers and their clerks in Ireland were to be put into the schedule, while those in England were not. Now, the taxing officers were at least as much judicial officers as the Masters in Chancery, they filled an equally important position, and therefore he would ask the Government to consent to omit them from the schedule. With regard to

the police magistrates or Commissioners of Police, Dublin, there were very strong political reasons why these officers should not be left subject to the will of the Government of the day; and he apprehended, also, that there would be no difficulty in striking out from the schedule the Registrars of Judges (Ireland), who were peculiarly the officers of the Judges of the land. He trusted the hon. Secretary to the Treasury would not object to leave out the salaries of the taxing officers and their clerks.

Amendment proposed, in Schedule (B), to leave out the words "Salaries of Taxing Officers in Common Law Business, and of Clerks to ditto in Ireland."

Question, "That the words proposed to be left out stand part of the Schedule," put, and *agreed to*.

MR. SPOONER then moved to add to Schedule B—

"The President, Vice President, and Students of Maynooth College, and the expenses of the Establishment enacted by 8 & 9 Vict. c. 25."

He said he did not mean to enter into the religious part of the question, but he wished it to be understood that his opinion on that point remained unchanged. At an earlier period of the evening he had stated his reasons why the charge for Maynooth College should be placed on the annual Estimates. They were now opening up the whole question of charges on the Consolidated Fund, and he could not conceive how the noble Lord could oppose placing a Vote on the annual Estimates which had formed part of those Estimates for forty years previous to 1845. It had been removed for reasons which had never been explained, and on grounds which were not only unsafe, but unconstitutional. He would appeal to those hon. Members who did not desire to shut out public opinion from bearing upon the votes of that House, to exempt no charge from the annual Estimates except those which related to judicial officers, or to cases in which contracts had been. The Vote for Maynooth did not come under either of these heads, and was not a grant which ought to be kept independent of the House and of the Crown. There could be no doubt on that point that it did not rest on any contract, for when Sir Robert Peel proposed it in 1845, he distinctly stated that it had not been introduced in consequence of any communication, deputation, or contract with the Roman Catholic authorities. It was altogether a free gift, given for the

purpose of conciliating those who never had been, and never could be conciliated, and had entirely failed in its object. No honest Roman Catholic holding the views which the Roman Catholic clergy professed to hold, ever could be conciliated till they obtained what they were every day more strenuously endeavouring to obtain—supremacy, instead of toleration. In that House they had heard those who had expressed their gratitude for the Bill of 1845 declare within the last twelve months that they never would be contented so long as the United Church of England and Ireland was established in the latter country. When he made that assertion on a former occasion, he was met with cheers, which clearly showed the determination of those who cheered to act, as he had supposed, in upholding the spiritual domination of the Pope. Unless the House stood firm in its Protestant principles, and, while maintaining them, told Roman Catholics that they must be content to be on a level with all other sects who did not agree with the Church of England, the Protestant spirit of the nation, which was daily growing stronger, would be raised to such a pitch that they would be compelled to do what they had better do at the present moment without such compulsion. They were not entitled to call on the Protestants of England to pay for the idolatry of the Church of Rome. He called on the House—the guardians of the public expenditure—to place the grant to Maynooth on such a footing as would enable them to exercise that control which was one of the duties intrusted to them. He called on all those who valued their Protestant liberties and their religious privileges, which their forefathers had fought to obtain, to stand firm to their duty, and to refuse to Maynooth a privilege which was accorded to no other sect. They were now taking several charges from off the Consolidated Fund, and as no reason had been shown why the charge for Maynooth should be made an exception, he called on the House to support him in seeking to place it on the Estimates, so as to bring it under their control and discussion annually. It was too late to say that by retaining it on the Consolidated Fund angry discussion would be prevented; had it prevented angry discussion? Peace would not be gained by stifling discussion and inquiry. The wound would canker until it broke out. He warned them of the danger they were incurring in seeking to continue to Maynooth

a privilege not given to any other religious body. He had admired the noble Lord opposite for the manly spirit with which he had met the Papal aggression; but he could not understand how the noble Lord could reconcile it to his sense of what was right to allow the Vote to Maynooth to remain in its present state—a Vote which might be said to be the foundation of the aggression, and which had totally failed in the object which the statesman who proposed it professed to have in view. They had been told that the result of the grant would be a higher kind of education, more obedience, and a better class of priests. What reason had they to look for such results? Every fresh concession to the Roman Catholics but increased their demands. He would have them take their stand somewhere. He implored them not to yield up their constitutional principles to clamour, or in supporting Motions of bribery—if he might use the word—in the hope of conciliating their opponents. If such an impression got abroad it would be fatal to their character, to the influence which they ought to exercise in that House and elsewhere, and to that confidence without which no Government could exist. He again implored the House to yield to the public feeling on this great question; for of this he was sure, that a continued opposition to it would occasion one day a conflict which it was terrible to contemplate. The hon. Gentleman concluded by moving that the grant be added to the Schedule.

COLONEL NORTH seconded the Motion.

Amendment proposed, at the end of the schedule, to add the words—

“The President, Vice President, and Students of Maynooth College, and the Expenses of the Establishment enacted by 8 & 9 Vict. c. 25.”

MR. NEWDEGATE said, he thought there was no excuse for refusing the Motion of his hon. Friend and Colleague, and he considered that the anxiety of the supporters of the grant to avoid discussion and to divide proved they had no case. All the other educational grants were made the subject of annual Estimates; that for Maynooth had no special claim to be differently treated. Those who opposed the Motion were trying to shelter themselves behind an Act of Parliament, and were seeking to escape the pressure of public opinion on the subject. Let the House consider how the case stood. From the date of the first grant in 1795

*Mr. Spooner*

till the Act of Union in 1800, the grant had always appeared in the Estimates. In 1799 it was refused by Parliament. By the Act of Union certain grants for pious and charitable purposes were guaranteed, and among these the average payment of about 7,000*l.* a year was held to be guaranteed to Maynooth for twenty-one years. The grant was not placed on the Consolidated Fund by Sir Robert Peel till 1845, but had been for twenty-four years previous to that year the subject of an annual Vote in that House, without guarantee of any kind. In proposing to place it on the Consolidated Fund, and to increase its amount, Sir Robert Peel stated that the object was to conciliate the Roman Catholics, especially the priesthood, and also to better the condition of the students at Maynooth, of which he gave a miserable picture. In his (Mr. Newdegate's) opinion the state of Maynooth was not what Sir Robert Peel had represented it to be. It happened that in 1845 Maynooth was visited by a traveller—Mr. Carus Wilson—and the following was the description he gave of it—

“After having heard so much of their poverty and wretchedness, we were all surprised with what we saw. The students are all dressed in black, with long black gaiters. Certainly some of them looked wretched, which is not to be wondered at, as they are mostly of the lowest orders. They are the whole year at Maynooth, with the exception of six weeks at Midsummer. We were told that the students had everything they wanted (indeed we went into the kitchen and saw the very best fare preparing), that they had as much beer to drink as they liked (we saw the brewery, a good-sized building, standing by itself), and as much to eat as they wished; and on Fridays the food is altered in quality (that is, fish instead of meat), though not in quantity, as they were not on that day restricted at all. This is rather singular, for surely a fasting does or ought to imply an abstinence. Then, as to the beds. Sir Robert Peel talked of ‘three sleeping in a bed.’ Now, our guide told us that he never knew of such a thing as even two sleeping in a bed all the time he had been there (twelve years); indeed, we saw the beds, which, though very good, were not large enough for two, much less three, and in addition to this, a priest told us that if such a thing was done it would be punished by expulsion. Surely the testimony of two on the spot may be taken, and almost proves that Ministers must have quoted from some suspicious authority. I believe that many who are in favour of the grant, if they went to the college and witnessed the mummery we did in the chapel, and really the seeming abundance and comfort of all in the college, would come to a different conclusion; but, in these days of lukewarm Protestantism, we are as much betrayed by the apathy of friends as the treachery of foes.”

That was the statement of Mr. Carus Wilson. He believed it to be true, and

Sir Robert Peel's statement to have been from the first untenable. He should like to bring this to the proof. He held in his hand the Report made by the Maynooth Commissioners to that House in 1851. He referred to it in support of the facts adduced by Mr. Carus Wilson, and because he wished to show that he was justified in the vote which he gave against the Act of 1845. That Report bore the signatures of the Duke of Leinster, Dr. Murray, and Sir William Somerville. In that Report, which had been made in 1851, it was stated that one of the questions which had been put to the President of the College by the Commissioners was, whether any improvements had been made in the public halls of the college for the better accommodation of the students? The President had replied to the effect that portions of the old buildings had undergone some slight alterations, but that he regretted to have to state that the new buildings were at the time unfit for habitation. He expected, however, that at the approach of the fine weather such progress would be made as to render them fit for the habitation of the students. The Commissioners then went on to say—

"We (having concluded the necessary inquiries) proceeded to inspect the halls, the refectory, the students' rooms, and the new buildings; after which we reassembled in the reception hall of the college, and reported, 'That, considering the want of sufficient furniture, and the absence of all provision for properly heating the new buildings, we are of opinion that it would not be desirable that the students' rooms should be inhabited during the present season. Much has been done in levelling and draining the grounds, thus rendering them more healthy and fit for the recreation of the students.'"

Now, he would show the state of health prevailing among the students of Maynooth in the year 1851—seven years after the grant to that college had been voted? In answer to a question which had been put to him by the Commissioners, the President had stated that there was only one case of serious illness in the college, and, with that exception, its inmates continued to enjoy perfect health. Thus, in 1851, 520 students of Maynooth were living in the old buildings of the college and under an unchanged dietary in the enjoyment of good health. It was impossible to reconcile these facts with the statement of their misery which had been made by Sir Robert Peel seven years before. It was also a very reasonable question to ask, what had become of the 30,000*l.* which had

been voted by Parliament for the purpose of obtaining for the students of Maynooth that amount of increased and improved accommodation which it had been alleged by the supporters of the grant was absolutely necessary for their comfort? In the autumn of the year 1852, Sir Francis Head—the well-known author, an engineer officer, and a gentleman who, therefore, was perfectly capable of forming a correct estimate with respect to buildings—happened to travel in Ireland, and had written a narrative of his tour in that country. In that narrative Sir Francis Head gave a short description of the College of Maynooth, and he (Mr. Newdegate) would read a few passages from that portion of the work, in order to show the House the state of things which prevailed in that establishment. Sir Francis Head wrote to the following effect—

"The new college, at the distance of about 100 yards from the open end of the lawn on which I was standing with the vice president, and which, as I have stated, was bounded upon the other three sides by the residence of the professors and barrack-looking dormitories of the senior department—there appeared immediately before us the chaste, simple, and appropriate front of the new college; a plain, solid, handsome building of grey rubble limestone of the best description, with Gothic entrance gate, and windows of white chiselled limestone. From the builder, who fortunately happened to pass, and who for a few minutes joined us, I learned that the height of the tall slated roof, which is surmounted by four crosses of different sizes, is forty-five feet; the height of the tower at each extremity of the building, six and a half feet; the central cross, seventy-six feet; height of cross, four feet; length of front, 305 feet. The whole building, which is just completed, but which remains to be fitted and furnished, has cost 30,000*l.*—the total Parliamentary grant. Like the old college, it is composed of three sides of a hollow square, of which it is designed that the fourth shall form a chapel, with additional dormitories and halls. The builder told me that his estimate for the extra work was—

Cost of building a chapel and hall	£20,000
Dormitories and halls	10,000

Total . . . . . £30,000

For the above, no Parliamentary provision has at present been made."

He should now wish to call the attention of the House to the extent of the accommodation thus in course of preparation. Sir Francis Head, in continuation, wrote as follows—

"The new college was in front three stories high, of twenty-seven windows each, with an additional story in the tall slated roof. The arched central entrance gate was of oak, with massive black hinges. The whole of the three wings, as they at present stand, comprise 215 rooms for

students, a library, seven lecture halls, a refectory, kitchen, and other accommodation; but the fixtures and furniture of the whole have yet to be provided."

Now he should ask the House to consider the result to which such a state of things tended. The old College of Maynooth, so far as they had been informed by the last Report, which had been made in 1851, and which had been confirmed by a subsequent document in the year 1852, was the healthy habitation of 520 students. The new college, seven years after the grant to Maynooth had been made, had been built, but not a single chamber in that new building had, up to the end of that period, been occupied. The precedent which had been laid down in 1845 seemed to have led the priests of Maynooth to form the idea that that House would grant 30,000*l.* in addition to the original grant of 30,000*l.*, in order to complete buildings not planned according to the design of the Legislature, but designed in accordance with the exaggerated notions of the undertaking which those priests had ventured to form, relying upon the disposition of the House of Commons to carry out their wishes. He would ask the House to look to the practical results of the state of things to which he had just been referring. The Legislature had made a grant of 30,000*l.* in 1845, for the purposes of enlarging and improving the College of Maynooth, and yet up to the year 1852 no new accommodation for the students in that college had been afforded. But how stood the case with respect to the future? The old establishment afforded accommodation for 390 senior and 130 junior students, making a total of 520. In the new building there were rooms to the number of 215, for the accommodation of students; so that, if an additional grant were made by that House for the purpose of fitting up and furnishing the new building, there would be accommodation altogether in Maynooth for 735 students instead of 520, the number for which provision had been made in the 5th, 6th, and 7th clauses of the Act of 1845. Thus, from an absence of proper supervision, the bounty of that House had been employed to construct additions to Maynooth, which he had demonstrated were by no means necessary for the accommodation of the number of students for which it had been the intention of the Legislature to provide. He had shown the House that up to 1852, the period when they had received the latest evidence upon the

subject, such had been the misappropriation of the grant to Maynooth, that it had been applied to the purposes of enlarging the establishment, not of effecting those improvements which the health and comfort of the students had been stated to require. He maintained, therefore, that he had made out an unanswerable case why Parliament should bring within its immediate cognisance for the future the annual payments devoted to the maintenance of that institution, for they had no security that any additional Vote would be more legitimately applied than the grant of 30,000*l.* which had been made for the improvement of the building at Maynooth in 1845. Let him not be told that that grant had answered the ends of those who were its advocates, upon the supposition that it would tend to conciliate the good-will of the Irish priests. Why, within a year of the time at which that very grant had been made, such was the state—he had almost said of insurrection, at all events of disturbance, which prevailed in Ireland—such the plunder, such the violation of property and of life, that the Government, by whom the grant had been proposed and carried, had been compelled to come down to that House in the next Session—that of 1846—and to ask for the enactment of a Coercion Act—a measure which at the time had been disapproved of by the noble Lord opposite, the President of the Council—but which, nevertheless, that noble Lord, when he came into power, dared not repeal. Could they forget the attempt at rebellion which was made in Ireland in the year 1848? Did the disturbances of that period, he would ask, afford evidence that they had succeeded in conciliating the good-will of the priesthood or the people of that country? Let hon. Members come down to a period two years later, and let them say what evidence of their having conciliated Rome by their act of spontaneous bounty was furnished by the Papal aggression, or by the reception which had been given to that aggression upon the part of the priests and Roman Catholics of Ireland? Had not Irishmen then risen to set the authority of the law at defiance? Had they not manifested a degree of allegiance to the Pope inconsistent with that which was due from them to their Sovereign—and did they not at public meetings give the health of his Holiness before they thought it proper to propose that of their Queen? Was it possible to forget the language which had been used at the

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meetings which had been held in Ireland in the year 1851? Could they forget the defiance of the law which was then manifested throughout that country? And if they did not forget it—as they could not—how was it possible, he would ask, to believe that the grants which had been made to Maynooth had tended to promote that peace and tranquillity in Ireland which its advocates seemed to anticipate, or to hope that they were likely to witness such a result as the consequences of continuing beyond the control of the Legislature funds the application of which they were bound jealously to guard? It was his sincere belief that there was but one way to govern Ireland and Roman Catholics—in all matters, whether connected with educational grants or any other subject whatsoever—and that was to place them upon the footing of fellow subjects. Let Her Majesty's Ministers, therefore, proclaim—if they desired to rule Ireland in peace—that no difference should be permitted to exist, so far as the administration of the law was concerned, between members of any religious persuasion—be they Roman Catholics, Dissenters, or members of the Church of England. ["Hear, hear!"] It was by acting thus, and thus only, that they would command the respect of the people. It was not by giving away the money of the nation blindly, or by placing grants beyond their own control, so as to afford scope for their misappropriation, that respect was to be secured. They must seek for it by extending to the professors of all creeds the same measures of impartial justice, and by maintaining fearlessly the authority of the law. Hon. Gentlemen cheered when he spoke of equality. It was perfectly true that Roman Catholics themselves did render it impossible that they could be placed completely upon a level with their Protestant fellow countrymen. He regretted that such was the case. But he must say that no man who had marked the conduct of the priesthood of Ireland during the years 1850 and 1851—that no man who had watched their conduct since that period, and who was aware of the extent of the control which, by means of the confessional, they exercised—could fail to be of opinion that they wielded an authority adverse to the Constitution, which it was their desire to make supreme. Hon. Gentlemen, when they reviled the Protestant Constitution of this country—when they spoke lightly of the liberty which that Constitution conferred—

when they dared to raise their voice against the authority of their lawful Sovereign, must form a strange idea indeed of the duties of a citizen if they expected that men, possessing common sense and ordinary feeling, would freely consent to arm them with a power to overthrow all that the people of England held most dear. He, for one, lamented that there existed any necessity for imposing restrictions upon our Catholic fellow-subjects. But he would say to hon. Members opposite that it was not by him, but by them and by those to whose dictation they blindly yielded, that those restrictions were imposed; and that the restrictions which he desired to defend he sought to guard only for the preservation of freedom, peace, and order in the State. He made the observations which he had offered to the consideration of the House for the purpose of proving that there existed good reasons why the House should take cognisance of the appropriation of the grant to the College of Maynooth in the same manner as it did of all other educational Votes. The noble Lord the President of the Council had signified it to be the intention of the Government to withdraw the Bill under their consideration rather than subject that grant to public discussion and popular control. He (Mr. Newdegate) should only remark, in reference to that point, that the course which the noble Lord had announced it to be his intention to pursue was rather a strange one for a Minister to adopt who had hitherto professed to feel some deference for public opinion in this country. The noble Lord could not maintain that the feeling upon the question of the grant to Maynooth was the temporary and hasty ebullition of a rash and heated bigotry, unless he was prepared to condemn a whole generation of his countrymen. But the noble Lord seemed to act as though he dare not, as a Minister of the Crown, expose the grant to Maynooth to discussion. Was the noble Lord prepared to admit, then, that he felt ashamed of the task of endeavouring to defend by argument the renewal of that grant? If so, the noble Lord admitted at once his belief, that if the public opinion of this country, as now matured, had full play in that House, the grant could not be maintained another year. He (Mr. Newdegate) would not deny, that if the conduct of the Roman Catholic priesthood had been such as had been expected by the supporters of the grant in 1845, the grant to Maynooth might have been

continued with less questioning. But since the conduct of the Maynooth-bred priests had been marked by defiance and semi-loyalty—he had almost said dis-loyalty—he told the noble Lord that it would be better that the grant in question should be withdrawn, than that the Government of this country should from year to year practise evasion, or assume an attitude of defiance against public opinion as manifested upon the subject. It was a complete fallacy to suppose that the annual Vote of 30,000*l.* was needed as a provision for the spiritual necessities of the Roman Catholics of Ireland. Would any one tell him that after the population of Ireland had been thinned by famine and by pestilence—that after hundreds of thousands of her inhabitants had left her shores to seek a freer and a happier home in other lands, especially in the United States—where, as had been admitted by a clergyman of the Roman Catholic persuasion, Mr. Mullen, they were liberated from that priestly control which had oppressed them in Ireland—it was useless to attempt to set up the fallacy, after all that had taken place, that there existed the same demand for priests in Ireland as formerly prevailed. It was stated as a fact, in almost every Irish newspaper, that a sum of 50,000*l.* had already been raised for the purpose of establishing a Roman Catholic University in Ireland that should throw into the shade those colleges which had been founded in that country by the authority of Parliament and of the Queen. If such were the case, what more appropriate sphere could be found for that new University than the education of the Roman Catholic priesthood? If the Roman Catholic body could afford to found a University of their own, why not train up the ministers of their religion, and relieve the empire from all controversy with respect to the grant to Maynooth? Why should not the House say to them, “Keep those buildings of which you now are in possession, but cease to expect assistance derived from the taxes which are levied upon your Protestant fellow-subjects.” Let them look around them, and behold the rapidity with which, throughout the country, monasteries and cathedrals and chapels—the evidences of an enormous expenditure—were springing up. Such a state of things furnished no proof of poverty upon the part of the adherents of the Church of Rome—no ground why they should ask for a grant of money from the House of

*Mr. Newdegate*

Commons. After the statements which he had made, and the authorities which, in proof of those statements he had adduced, he felt he had a right to call upon the House to adopt means, at all events, to guard against the future misappropriation of their grants which he had shown them had been misapplied. He should give his cordial support to the Motion of his hon. Friend and Colleague.

Mr. HEYWORTH said, that he would vote for the abolition of the grant to Maynooth whenever a direct proposition of that kind was submitted to the House, but he declined to support the Motion of the hon. Member for North Warwickshire, considering that it was only an obstruction to the regular business of the House.

Mr. GARDNER said, he should vote for the Motion of the hon. Member for North Warwickshire—first, because he was opposed to all grants for religious purposes made under any pretence whatever; and secondly, because he believed that the hon. Gentlemen the Members for North Warwickshire were the instruments specially raised up by Providence to bring about the destruction of the Protestant Church “as by law established” in Ireland. When he heard Gentlemen advocate the delusion of Protestant ascendancy in Ireland, which meant the forcing upon the Roman Catholics there that which they believed to be an heretical Church, he was astonished that their common sense did not show them that anything more destructive—he would not say of the peace of these islands, but of the delusion of Protestant ascendancy in Ireland which they were so anxious to support—could not be imagined than the present Motion. He should be satisfied with nothing but the complete secularisation of ecclesiastical property in Ireland, believing there could be no solution of this difficulty which stopped short of that secularisation.

[No other Member having risen to address the House after Mr. Gardner resumed his seat, Mr. Speaker called for a division, when, the sand-glass which precedes the closing of the doors prior to taking a division having nearly run out,]

Mr. I. BUTT rose to speak, but was assailed with vociferous cries of “Order, order!”

Mr. SPEAKER said, that great inconvenience had arisen on previous occasions from Gentlemen allowing the glass nearly to run out and then attempting to renew the debate. A suggestion had been

made that when the glass was once turned the debate was to be considered as at an end; and he believed that was the general understanding of the House.

MR. DRUMMOND said, he believed Mr. Speaker had just laid down the rule which had been established by common consent among them, that as soon as the glass had turned, the debate was to be considered at an end.

MR. SPEAKER said, he had never said he had adopted any rule of that sort; but he understood it to be the intention of the House. He had merely called the attention of the House to the circumstance, that when the glass had nearly run out hon. Members often rose to renew the debate.

MR. I. BUTT said, he understood the decision of Mr. Speaker to be, that, strictly speaking, he was in order, or he would not have persisted in his attempt to speak. But at the same time he understood Mr. Speaker to say, there was a general understanding in the House that when once the glass was turned no Member should after that rise to address the House. If that was the impression of the House, he would not now attempt to occupy their time, though in strict order he believed he was perfectly entitled to speak. Being at first perfectly ignorant of that understanding, he only wished now to say in justification of himself, that he waited till the last moment in the expectation that some one of Her Majesty's Ministers would have risen to address the House on the subject.

Question put, "That those words be there added."

The House divided:—Ayes 90; Noes 106: Majority 16.

Bill passed.

#### SUPPLY—MISCELLANEOUS ESTIMATES.

Order for Committee read; House in Committee.

The following Votes were agreed to—

- (1.) 3,875*l.*, University of London.
- (2.) 7,710*l.*, Scottish Universities.
- (3.) 300*l.*, Royal Irish Academy.
- (4.) 300*l.*, Royal Hibernian Academy.
- (5.) 2,600*l.*, Theological Professors, Belfast.
- (6.) 2,259*l.*, Queen's University, Ireland.
- (7.) 55,225*l.*, British Museum Establishment.

MR. APSLEY PELLATT said, he must complain of the plan adopted at the Museum, by which the admission of visitors

was confined to only three days in the week, the other two days being occupied by students for drawing. He thought this matter required a radical reform, and all the more that he believed the period allowed for students was not taken advantage of by them. He had himself gone to the Museum on a drawing day, when he found only twelve students so engaged, and he had ascertained that the average attendance for several months past was only about twenty-four. He hoped the attention of the Government would be called to this subject.

MR. J. BALL said, he hoped the Committee would receive the assurance of some Member of the Government that the management of the British Museum would, ere long, receive the attention of Ministers. The abuses in the management of that institution were inherent in the system. The public were led to believe, that, because there were several gentlemen of distinction connected with the management of the Museum, their ability was a guarantee for the due performance of their duties, and the good government of the institution. It was far from his intention to cast the slightest imputation upon those individuals, but the fact was, that the variety and complexity of objects to be attended to were such as made it impossible for any large number of those gentlemen to be competent to manage. One might be acquainted with antiquities, another with science, and a third with geology; but, when any question which really interested the public was required to be decided upon, there were very few of them competent to give a sound decision. Besides, out of the seven persons who had the practical management of the Museum, it was well known that only four or five were present on any one occasion, and they might happen to be the least competent of the whole body. As an illustration of the evils of the present system, he might allude to the case of the Faussett Collection of British antiquities, which was well known to be the most valuable collection of the sort that had ever been brought together, and yet, when an opportunity was offered to the Trustees of that Museum to acquire the collection at a price far below its value; and when another collection, only inferior to it in value, was offered gratuitously, on condition that the Faussett Collection was purchased, the Trustees refused to buy the collection. He had further to complain, that there was no recognised person in that

House from whom information was to be had, since the hon. Baronet who lately represented the University of Oxford (Sir Robert Harry Inglis) had ceased to be a Member of the House. He would mention another instance of the gross mismanagement of the Trustees. A distinguished officer of the Museum, Mr. Hawkins, had for years been engaged in the preparation of an important work, illustrative of British history, at the request of the Trustees. The work was nearly completed, and had, in fact, gone through the press, when the Trustees decided that it was unfit for publication. The reasons assigned for this decision were various. Some said it was offensive to the adherents to the Stuarts, and others said it was offensive to the Roman Catholics, and a third party said it was offensive to the memory of William III., of whom the right hon. Member for Edinburgh (Mr. Macaulay) was so warm an admirer. But the most remarkable fact was, that Mr. Hawkins had literally been denied a copy of his own book, though he requested one, that he might correct or defend what was considered offensive. He might also state, that the scientific department of the Museum was in such a condition, that students could derive no instruction from the collections.

Mr. J. G. PHILLIMORE said, he would suggest that steps should be taken to print some of the valuable manuscripts in the possession of the Museum—the works of Wycliffe, for instance, which, he was sorry to say, to the disgrace of this country, had never yet been printed.

Mr. GEACH said, he hoped that more frequent opportunities might be given to the public of visiting the British Museum. He saw no more reason in shutting it up on certain days in the week, than there would be in shutting up the Crystal Palace.

Mr. W. J. FOX said, he trusted that if the Museum was to be opened more frequently to the general public, some reservation would be made with regard to those portions where artists were employed in copying works of antiquity. The real reason of the difficulty in throwing open the Museum every day was, that the collection had outgrown, not only all existing capacity, but all the capacity that it was possible to afford in the present situation. There ought to be a complete separation of the library and the antiquities, nor would the space thus obtained be at all more than was wanted for the full expansion of the library.

*Mr. J. Ball*

He would also suggest that there should be a reading-room established, accessible in the evening. He had often heard young men express their regret that there was no such advantage open to them, and he knew that they would be willing to contribute towards any expense which it might cause. Students in the industrial arts, too, for whom lectures had been provided in Jermyn Street, complained that there were frequent references made in their lectures to articles in the British Museum, which were not accessible to their inspection at any hour which they could command.

Mr. JAMES MACGREGOR said, he thought that any money would be well spent which might be devoted to enabling the public to visit the Museum more frequently.

Mr. J. WILSON said, he was sure that his right hon. Friend the Member for the University of Cambridge (Mr. Goulburn) would be always prepared, if due notice were given him, to answer any questions that might be addressed to him with respect to the management of the Museum, for there had never been a more active, zealous, and able representative of that establishment than his right hon. Friend, not even excepting the hon. Baronet (Sir Robert Harry Inglis) whose absence from that House they all deplored. He could state, on the authority of his right hon. Friend, that the propriety of adding to the time during which the Museum was open free to the public was at present undergoing the earnest consideration of the Trustees. It should not be forgotten, that the public establishments devoted to art in this country were already open to the public on more days than similar establishments in continental cities were open to the inhabitants of those cities. In Paris, the people were admitted to the Louvre on Sunday only, although, no doubt, a stranger, on producing his passport, was admitted on every other day. He readily admitted, however, that the fact that a less amount of accommodation was given in Paris, afforded no reason why we should not increase the accommodation to the public in this country.

Mr. J. G. PHILLIMORE said, that, although the Louvre was only open on Sundays, he believed that the Bibliothèque Imperiale in Paris was open to the public every day in the week.

Mr. EWART said, he thought it was a discredit to the Trustees of the British Museum that they had not purchased the

Faussett Collection of Anglo-Saxon antiquities. It had been offered to them for the moderate sum of 680*l.*, and if they had purchased it they were to have received another collection gratuitously. The Trustees had returned all sorts of answers to the applications which had been made to them upon the subject. The principal reason, however, which they had assigned for not buying the collection was, that they had not the necessary funds; and when Lord Mahon had offered to make an application to the Treasury for the money, they had negatived his proposal. He believed that the errors committed in that, and in other cases, were owing to the fact that the Trustees of the establishment were persons invested with no real responsibility.

LORD SEYMOUR said, he could assure the hon. Member for Dumfries (Mr. Ewart) that that question had been fully considered by the Trustees at several meetings. The Committee must be aware of the great difficulty that there was connected with the purchase of antiquities. First of all, there was the limited sum placed at their disposal by Parliament for that purpose. Next, consider the wide field that department comprised. There were Nineveh antiquities, Greek antiquities, Mediæval antiquities, Anglo-Saxon antiquities, British antiquities, and even antiquities from America had been offered to the Trustees. In fact, there was no part of the world from which antiquities did not come, and the difficulty was, with the limited sum at their disposal, to please all parties. The only question for the consideration of the Trustees was, how to secure those antiquities which it was thought most desirable to possess. Now the classical antiquities were of such a nature that the people could not possess them unless the Trustees procured them — antiquities relating to Greece, Italy, and Asia Minor, which, if they were not procured for the Museum, would not be procured at all. But they knew well that British antiquities, if they were not procured for the Museum, would not be lost to the country, for they would find place in some provincial museum. Now that was the case with the Faussett Collection, and he believed that the decision of the Trustees was not an injudicious one. It was impossible that the Trustees could purchase every collection that was offered to them. It was but lately that they were asked to give 8,000*l.* for a collection of shells from the Pacific, which, of course,

they were obliged to refuse. With respect to the Faussett Collection, every means was taken to have a full attendance of Trustees to discuss it, and on one occasion, a general meeting was summoned on a notice of motion to apply to the Treasury for the money to purchase it. There was a large attendance, and the subject was fully discussed, and the Trustees decided that it was not a case in which they ought to apply to the Treasury. He believed that the Trustees embraced gentlemen who were authorities on all subjects of literature and science. The question of antiquities, every one knew, was one of more difficulty than any other, as the question of taste entered so largely into it; but still he thought that upon the whole the decision which the Trustees had come to was a right one.

MR. BELL said, he believed that many persons would be surprised at the statement of the noble Lord, that the first object of the Trustees was to purchase the antiquities of remote nations, and not those of our own country.

MR. EWART said, that as the antiquities in the Faussett Collection were connected with our own early history, it was peculiarly desirable that the Trustees of the museum should have purchased them.

MR. KINNAIRD said, he must beg to express a hope that the library of the British Museum would be opened in the evening, for the benefit of young men who could not attend at any other time.

LORD SEYMOUR said, the question of opening the library in the evening had been frequently mooted. It must be remembered, however, that the library of the British Museum was different from a common lending library. Its real value was not for persons who wanted to read the common books of the day, or of the last fifty years. There was scarcely any work of science, of history, or of memoirs in Europe, which had not derived benefit from it. It should, therefore, be most open to readers of that class who came there to compile works, and who wanted assistance from books which were not of ready access elsewhere. There ought to be other metropolitan libraries of common books, where people could read when they pleased; but to admit persons in the evening, and let them send for any books they wanted out of 450,000 volumes, would be to incur great risk. The officers must go about with lights, and put them down while looking for books, and this would of course

be attended with danger. The object could only be accomplished by putting aside a certain number of books to be read—an arrangement which would cause great dissatisfaction. When there was a new reading-room, there would be much greater accommodation for readers; but he thought the department of printed books and the department of manuscripts were, as far as the public were concerned, the most useful parts of the British Museum.

SIR DENHAM NORREYS thought some fault might be found with the Trustees for not having adopted a particular principle with reference to the antiquities they thought proper to select. He could not see why the Trustees should consider the collection of English antiquities beneath their notice. They had lost an admirable opportunity of commencing a collection of British antiquities.

MR. W. J. FOX said, he understood there was a large number of duplicates in the collection, which might be made available for an evening library.

LORD SEYMOUR said, he was glad to have an opportunity of explaining the position of the library with regard to duplicates. If the various editions of the same work were to be called duplicates it possessed a good many; but unless they were exact copies it was not right to call them duplicates. Great mischief had arisen from the former practice of disposing of duplicates; a copy of a work of Craumer, with his autograph, was disposed of in ignorance of its value. It was also desirable to retain duplicates, as the books were sometimes mutilated by the readers. Perhaps, hereafter, some of the duplicates might be put aside and used in a reading library, but until the new reading-room was completed there was no accommodation for such a purpose.

MR. BELL said, a plan had been proposed by Mr. Panizzi, for opening the reading-room in the evening. He wished at the same time to ask when it was likely that the new catalogue would be completed. According to his calculation, it would take sixteen years to complete the new general catalogue, containing all the books in the library before 1847; all since that date were to be put in the supplemental catalogue. At present it was necessary to search five catalogues for a book.

LORD SEYMOUR said, the catalogue was now in such a state that almost any book could be found. He had looked out

a book and had it brought to him within three minutes, which, considering the extent of the library, was wonderfully quick. During the inquiry by the Commission, the Commissioners sent into the reading-room, and invited the readers to come and make complaints. In came several persons, who said that such and such a book was not in the catalogue, and that it was a disgrace to the Museum that it was not to be found there. He (Lord Seymour) turned over the pages of the catalogue, and found the missing volume—and he also discovered on inquiry, that it had been there for several years. Such complaints came generally from careless and superficial readers, who wanted to have the place found for them, and complained if it were not. He recollected one reader complaining that, having sometimes twenty volumes at once, it was very hard that he should have to carry them all back; it was, he said, servants' work. He (Lord Seymour) asked how he acted in that respect when using his own library, when he confessed that his library was very small. In one case a person complained that he could not get a Horace. It turned out that there were three hundred copies of Horace in the Museum. The explanation was that the reader had not stated what edition he wanted, and he consequently complained that he had been ill treated at the library. A little handbook of the library had been published, which he thought would be most useful to the public.

In reply to a few remarks from Mr. BELL,

LORD SEYMOUR said, he wished the different public libraries would combine to print a useful catalogue in order that everyone might be able to ascertain what books were printed up to a certain date. Such a catalogue would be a guide to all literature hereafter. Something of that kind might easily be undertaken if this country, France, and some of the Italian States, would combine. He did not think that at present an attempt to print the whole catalogue would be of any great use.

MR. EWART said, the Committee on public libraries, of which he was a Member, advised that there should be a catalogue of catalogues—a national catalogue comprising the books of all the public libraries in the country. The United States already possessed that advantage. He agreed with the noble Lord (Lord Seymour) that it was desirable to establish a number of public libraries in the metro-

*Lord Seymour*

polis. The Report of the Commission on the Corporation of the City of London recommended that London should be divided into different localities. Such a division would afford facilities for establishing several libraries, and he should like to know, therefore, whether it was the intention of the Government to establish separate corporations for different districts in London.

*Vote agreed to.*

(8.) 101,142*l.* for New Buildings and Fittings.

MR. HEYWOOD said, there was an item of 61,000*l.* "for the erection of a building within the interior quadrangle of the Museum, for the purpose of affording increased accommodation." He wished to know what kind of building it was for which so large a sum was required. If it was merely for the glass roof of the quadrangle, he thought the sum was a great deal too much.

LORD SEYMOUR said, the expense of forming the new reading-room was undoubtedly considerable, but at present it was absolutely impossible to find room for the collection of books which found their way into the Museum. The new building would afford accommodation for many years to come, and, in addition, it would form a good reading-room for the use of double the number of readers who at present attended the library.

*Vote agreed to; as was also—*

(9.) 1,500*l.*, Antiquities for the Museum.

(10.) 7,490*l.*, National Gallery.

LORD WILLIAM GRAHAM said, he wished to know whether the rumour was well-founded that it was in contemplation to appoint a salaried director, and to select an eminent German professor for the appointment. He should have thought that an English gentleman could be found that would be thoroughly qualified to act.

MR. J. WILSON said, the subject referred to was under the consideration of the First Lord of the Treasury, to whom it was referred. An application had been made within the last fortnight from the National Gallery with regard to the appointment of such an officer. He hoped that the Government would make the appointment in a few days. There was no truth whatever in the rumour of a German professor being about to be appointed.

MR. DANBY SEYMOUR said, he saw that it was proposed to vote 27,000*l.* in the present Estimates for a new National Gallery at Kensington Gore. Now, the

Government had never said that they had fixed upon Kensington Gore as the site for a National Gallery, and from the form of this Vote there were no means of judging what they intended to build there. The Royal Academy were only allowed to occupy a portion of the building in Trafalgar Square, because at that period the nation did not possess sufficient pictures to furnish it, and they held it under the distinct understanding, that when the pictures belonging to the nation should increase so much that more space was required, they were to give it up. That time had now arrived, for there were more pictures in the National Gallery than could be properly hung there, to say nothing of the Vernon Gallery, which ought to be under the same roof as the rest of the paintings belonging to the nation. Common sense, therefore, suggested that the Royal Academy should be required to remove from Trafalgar Square, and that the apartments vacated by them should be given up to the Vernon Gallery. The Government had given 140,000*l.* for Burlington House, and if it were right for the public to give rooms and accommodation to the Royal Academy, they might be located there.

MR. J. WILSON said, the item of 27,000*l.* for land at Kensington might be said to be a continuation of the Vote of last year. With regard to the Vernon Gallery, the Committee were aware it was arranged that those pictures were not to be mixed up with any others; and Her Majesty was graciously pleased to allow them to be kept separately in Marlborough House. There was no convenient place to which the Royal Academy could be removed, and he believed that the public were satisfied with them remaining where they were at present, in Trafalgar Square.

MR. DANBY SEYMOUR said, he distinctly remembered that the Vote was taken for the purchase of land at Kensington Gore, without any pledge being given on the part of the House that the National Gallery should be removed from Trafalgar Square. The exhibition of the Royal Academy, it was understood, brought in 7,000*l.* a year, although the original agreement with them was, that they were not to charge the public anything for admission. It was said that the Royal Academy had accumulated a sum of 140,000*l.*, although no means existed of knowing the truth of this report. The whole question of the Royal Academy required to be looked into, and he hoped before next Session

Government would make some inquiry respecting it.

Mr. EWART said, it was well known, by the declaration of the Chancellor of the Exchequer for the time being, made twenty years ago, that the Royal Academy only held the rooms in Trafalgar Square under the sanction of the Government, and that they might be invited to vacate them whenever the public required the rooms they now occupied. They certainly were not in Trafalgar Square in perpetuity, they were only tenants at will. He should like to see the Royal Academy independent, and not relying only on Royal patronage, but rather on the intrinsic merits of its members, and the artists associated with it.

Mr. APSLEY PELLATT said, he must complain of the National Gallery being open only four days a week, while Marlborough House, the British Museum, and other places of public amusement, were open five or six.

LORD WILLIAM GRAHAM said, that he saw a sum of 2,800*l.* assigned for certain German pictures. Were they only curiosities, or were they calculated to serve the purposes of real art?

Mr. J. WILSON said, that was the object. They were pictures of a very rare description.

Mr. DRUMMOND said, it appeared to him that year after year the House of Commons was called upon to vote large sums of money for the purposes of these institutions, and that the voting such sums seemed but to tend to the demand for still larger sums each successive year. There was no end to this kind of encroachments, and they ought to be checked. It really seemed as if Government was in the hands and at the mercy of the builders, and he never yet saw a Government building erected which could not have been built under the supervision of a private gentleman at a considerably reduced cost. He must confess he was much surprised that the Committee had not been edified with any account this year of "the pumice-stone," and its judicious effects on some of our best pictures, and he considered it anything but wise in Parliament to go on blindly expending large sums of money in the purchase of pictures, merely to place them under the control of the same men who had so grievously misused them. He believed no private persons who had any pictures they cared about would have continued to subject them to

*Mr. D. Seymour*

that judicious custody which Government had not thought it improper to continue.

Vote agreed to; as were also the two following Votes—

(11.) 2,020*l.*, Magnetic Observations Abroad, &c.

(12.) 500*l.*, Royal Geographical Society.

(13.) 11,250*l.*, Mixed Commissions.

SIR GEORGE PECHELL said, he must complain that, so far as he could see, nothing had been done in the last year towards the suppression of the slave trade. Certainly a few vessels had been captured off the coast of Africa, but none off the coast of Cuba, the seat and spring of the traffic. It was of the highest importance that this service should be conducted in a proper and efficient manner, but he found that the squadron off Cuba had been reduced by two vessels. At this moment there were only four vessels conducting the service off that island—a force which he considered totally inadequate. He contended that it was highly inexpedient to reduce the force just at a moment when the Spanish Government appeared to be taking up the subject in earnest. There must be a determined blockade maintained off that coast. Brazil had already given way, and Spain would also, if we showed that we were determined to put an end to the traffic.

Vote agreed to.

(14.) 156,865*l.*, Consular Establishments Abroad.

Mr. W. WILLIAMS said, that amongst the items in this Vote he observed the sum of 4,000*l.* for consuls at Russian ports: he should like to know if these were still maintained? There were also charges for consuls at Cologne, Frankfort, Paris (where we had an Ambassador and a complete diplomatic establishment), Madrid (of which the same might be said), Naples, Patras, Athens, Cincinnati, and other places, our trade with which was a mere bagatelle. He contended that all these charges were unnecessary, and a waste of public money, and that the appointments were made for mere purposes of patronage.

SIR GEORGE PECHELL said, he must express his regret that no Member of the Government had thought fit to answer the observations he had made relative to the slave trade, and the necessity for taking more active measures for preventing its being carried on in Cuba.

VISCOUNT PALMERSTON said, he could assure his hon. and gallant Friend

that his noble Friend at the head of the Foreign Office, and his right hon. Friend the First Lord of the Admiralty, were unceasing in their endeavours to obtain from Spain the due execution of the treaties by which that country was bound to assist in the suppression of the slave trade. Considerable impression, he believed, had been made on the Court of Madrid; and orders had been given by which the slave trade of Cuba would be materially brought down, if not entirely annihilated. The wants of the naval service elsewhere had compelled the withdrawal of some portion of the forces employed upon that station; but he was assured that the vessels still employed were sufficient for the purpose, and he could assure his hon. and gallant Friend that this was an object which the Government had greatly at heart. The hon. Member for Lambeth (Mr. Williams) had complained of the expense of the maintenance of consuls at certain places, and had broadly stated his opinion that we had no trade with those places, and that there was no need of consuls at them. He (Lord Palmerston) could assure him that his judgment had been formed upon very light and erroneous grounds. In all these places similar officers were needed, and in most cases their salaries were really below what was required to enable the officer to keep up the decent appearance which was essential to the due performance of his duties and to the credit of the country which he represented.

MR. SPOONER said, he rose to order. The noble Lord was carrying on a most interesting conversation on the other (the Ministerial) side of the House, of which hon. Members on that (the Opposition) side could not hear a word.

VISCOUNT PALMERSTON said, that what had passed between his hon. Friend (Mr. Williams) and himself was rather interesting to them than to the Members of the House generally, as he was endeavouring to satisfy his hon. Friend of that of which he thought it was not necessary to satisfy any other hon. Member, viz. that this subject of consular appointments had been minutely looked into by his noble Friend now at the head of the Foreign Office, and by himself when he held the seals of that department, that the number of consuls had been reduced to as low a point as was consistent with the public service, and that their salaries were generally less than he (Lord Palmerston) thought that they ought to be.

MR. W. WILLIAMS said, he should like to be informed what were the duties of our consul at Cincinnati. No ships from this country ever went within 1,000 miles of the place. Next year he should divide the Committee upon every one of these items.

CAPTAIN SCOBELL said, that the Vote included consuls at St. Petersburg, Riga, Archangel, and some ten or a dozen other places in Russia. We had no trade there now, at all events, and he should like to know how it was that they were included.

MR. J. WILSON said, that those consuls had been temporarily withdrawn from their duties; but they were public officers, and during that period were entitled to a considerable portion of their salaries. Although these Votes were taken now, it by no means followed that the whole of the money would be expended.

MR. DANBY SEYMOUR said, he wished to inquire whether the consuls in China were allowed to trade? If they were, they would have a strong interest in siding with the rebels against the Imperialists. With respect to the recent attack on Shanghai it was his belief that if we went on as we had been going, we must end by an occupation of the country. That was not only his opinion, but it was the opinion also of merchants in this country, and of individuals holding high official situations in other countries. This was the very way in which the Burmah occupation had begun. The consul first asked for a plot of ground, then for a force to protect it, and then for fortifications. Gradually the interests of private merchants would, unless the Government interfered, drag us into the occupation of a great portion of China. This had for some time been advocated by a newspaper of considerable circulation, published in Calcutta, called the *Friend of India*, which constantly asserted that the British empire in the East could never stop till it reached Peking. He considered it would be wrong to interfere with the internal arrangements of the Chinese empire, and, although it was certainly the duty of the British Government to protect its subjects, it should by no means encourage them to take steps that might lead to a misunderstanding with the Chinese Government.

VISCOUNT PALMERSTON said, the transaction to which his hon. Friend had alluded was simply this—that the Chinese troops had encroached upon the ground that was set apart for British subjects, and committed such acts of violence that it

became absolutely necessary to repel violence by violence; but, so far from our proceedings in China having had a tendency to disturb the peaceful relations between the British Government and the Chinese empire, and to lead to encroachments on their territory, we had, on the contrary, acted with the greatest forbearance. Ever since the conclusion of the Treaty of Nankin the conduct of the Chinese authorities had been such as would have justified a rupture with that Government. They had violated the engagements into which they had entered, and if any desire existed on the part of the British Government to proceed against them, abundant cause had existed almost since the termination of the last war. They had refused on divers pretences to admit us to parts of Canton to which we ought to have access, avoided their engagements with respect to the Hong, and nullified their stipulations in regard to tariff. In point of fact, there was hardly a single engagement they had not broken.

SIR GEORGE PECHELL said, he wished to call the attention of the Government to losses occasioned by pirates on the coast of Morocco, with a view to sending out instructions to our consul there, in order that active measures might be taken against them.

MR. GREGSON said, he quite agreed with what had fallen from the noble Lord (Viscount Palmerston) with respect to the conduct of the Chinese authorities, and he believed before long it would be necessary to take more determined measures to compel them to adhere to their treaties.

*Vote agreed to.*

(15.) 18,500*l.*, Missions abroad.

MR. W. WILLIAMS said, he had complained before of the vast number of British public officers at Constantinople. They had there a consul and vice-consul, with large salaries, an ambassador, with not less than half-a-dozen *attachés*, and there was a considerable charge for interpreters, *attachés*, and clerks. There were also charges for servants and servants' board wages at St. Petersburg. He thought such extravagance ought to be corrected, for these charges increased year by year.

MR. J. WILSON said, he must explain that the entry was an extraordinary one, caused by the sudden withdrawal of our ambassador from Russia, and the consequent break up of the ambassador's establishment. It was obvious that the

country must bear all the inconvenience caused by the sudden disruption of peace.

*Vote agreed to.*

(16.) 135,772*l.*, Superannuation and Retired Allowances.

MR. VERNON SMITH said, he believed this was a Vote which ought to be closely watched after. He found that there was an increase of 3,000*l.* in the present Vote as compared with that of last year. Now, he found that many persons had been permitted to retire from the public service upon superannuation allowances as early as forty years of age, and a still greater number at fifty. Many of them, no doubt, retired from permanent ill-health; but with others that was not the case, and the public ought to stand accurately informed as to the exact position of all parties allowed to retire. What he was prepared to contend for was, that all new appointments ought to be filled up from the redundant list, and that no new ones ought to be made until that list was exhausted. The only case he could recall to mind in which a public servant had returned to office after having been superannuated for ill-health, was that of Sir Alexander Spearman, who was Secretary to the Treasury. That gentleman, after an absence of a year or two from his office, expressed his willingness to resume the charge of any duties that might offer; and accordingly his invaluable services were being once more enjoyed by the public. He felt confident that any Government which wished to gain a reputation for administering the affairs of the country with proper intentions, should look to this matter, and act on the determination of, as far as possible, filling all vacant situations from the redundant list.

MR. J. WILSON said, he must admit that there was much force in the observations of his right hon. Friend. However, he would remind the Committee that the Government had little or no control over the present Vote, which was regulated by Act of Parliament; and, moreover, the money paid could scarcely be called public money at all, inasmuch as a fund was contributed by gentlemen engaged in the public service very much larger in amount than that annually voted by Parliament. Indeed, the real question, he considered, was whether the service ought not to be placed in a much better position relative to retiring allowances.

MR. W. WILLIAMS said, he observed that persons at a comparatively early age

*Viscount Palmerston*

were set down as retiring from infirmity, and one gentleman, aged sixty-one, whose salary was 1,000*l.* a year, he saw received a very large pension. There were other pensions charged on the Treasury for persons fifty-four years of age. Many distinguished persons were able to hold their present offices and discharge most onerous duties who had attained greater age than that. He must also complain of the great increase of superannuation charges in the Audit Office, and in the public offices in Ireland.

MR. J. WILSON said, that such cases sprung up under the regulations in force prior to the year 1834, when the superannuation fund was established. The time would shortly arrive when the interest of the accumulated fund would exceed the sum voted by Parliament on that account.

CAPTAIN SCOBELL said, he could not avoid complaining that there were larger retiring allowances being granted to men in the civil service than in either the Army or Navy. When had they heard of an old admiral or general receiving 1,200*l.* a year? He also found men entering the public service after forty years of age. Now that should not be so.

LORD NAAS said, he thought it very desirable that the Government should inform the Committee whether they had arrived as yet at any decision in respect of the civil service superannuation fund, as much anxiety was felt in many quarters on that point.

MR. J. WILSON said, this was a question of great importance to the public servants, and it was right that a decision should be come to as speedily as possible. They alleged, what the state of the account would certainly lead them to infer, that they were paying a larger amount of contribution than was required to provide the necessary superannuation. At the same time, this allegation was open to dispute. The payments might in the meantime be large and the claims small, but the latter might increase, as in the case of an insurance office. The question, however, was under consideration, the Government actuary being engaged in making the necessary calculations, and a decision would be come to as soon as possible.

Vote agreed to; as were also the following—

(17.) 2,561*l.*, Toulonese and Corsican emigrants.

(18.) 2,210*l.*, National Vaccine Establishment.

(19.) 325*l.*, Refuge for the Destitute.

(20.) 4,200*l.*, Polish Refugees and Distressed Spaniards.

(21.) 4,469*l.*, Miscellaneous Allowances.

(22.) 1,352*l.*, Foundling Hospital, Dublin.

MR. W. WILLIAMS said, he objected to this Vote. He did not see why there should be hospitals of the kind maintained in Ireland at the public expense. There was nothing of the kind done in England and Scotland. He gave notice that he would divide on the Vote the next year, if it was brought forward; as well as on all the other Votes of the same description.

LORD NAAS said, the hon. Gentleman mistook this for the national Vote for hospitals in Ireland. The present Vote was for the maintenance of the inmates of an institution that was abolished when the Poor Law was introduced into Ireland. The Committee which had been sitting on this subject, and which was composed in the majority of Englishmen, had reported most favourably on behalf of these institutions, and, if the Government would postpone these Votes until the Report of that Committee was presented, they would find the opinion of that Committee entirely adverse to any reduction in the grants heretofore made to these institutions.

MR. MITCHELL said, that the salaries granted to the medical officers in Ireland were much smaller than to the officers of the Vaccine Establishment in England. He was no Irishman—but he wished for justice to Ireland. He therefore charged the hon. Member for Lambeth (Mr. Williams) with inconsistency in objecting to this Vote and not to the former one.

MR. W. WILLIAMS said, that no scientific institution in the country had conferred greater benefit on the nation at large than the Vaccine Establishment, and not on this country only, but on Ireland and the Colonies, and perhaps on the whole world. This was more than could be said of the Dublin Hospital, or any similar institution.

LORD NAAS said, he must still vindicate the claim of the hospitals in Dublin to public grants on the ground that whereas St. Thomas's Hospital, Guy's Hospital, and other hospitals in London had been endowed with grants out of the revenues of the suppressed monasteries on the sites of which they stood, the revenues of the monastery on which the hospitals in Dublin stood had been sequestrated without any endowment being made for the hospitals.

Mr. W. WILLIAMS said, that all the hospitals in this country were maintained by voluntary contributions, and not a single sixpence was voted out of the public revenues of the country.

COLONEL DUNNE said, that after voting large sums for the National Gallery and such other purposes in this country, it certainly required all the modesty of the hon. Member for Lambeth to refuse a miserable pittance to the hospitals in Dublin.

Mr. BRIGHT said, he thought they were discussing many of these questions in the dark, as they did every year. Probably injustice was done by paying persons who ought not to be paid, and underpaying others. He would suggest that in future a Committee should be appointed at the beginning of the Session, to whom the whole of the Estimates should be submitted, to be by them thoroughly investigated. The miserable explanations they heard from the Treasury bench were most unsatisfactory. Were this course adopted, the public money would be economised, and the public service would greatly benefit.

Mr. VANCE said, he was in favour of the Votes being postponed till the Report of the Committee was before the House. The majority of that Committee were English Members, who were generally prejudiced against these grants; but, after hearing the evidence, they were all but unanimous in favour of the Votes being not only continued, but increased.

Mr. VINCENT SCULLY said, he would remind the Committee that there were so many hon. Members who took peculiar views, or held crotchets upon many of these Miscellaneous Estimates, that the suggestion of the hon. Member for Manchester (Mr. Bright) could not be too strongly enforced. For instance, there was the Maynooth Vote and the Regim Donum grant, which some hon. Member or other invariably made his hobby, and as an illustration of what he meant, he would venture to say that the hon. Member for North Warwickshire (Mr. Spooner) would not be quite so fast asleep to the argument if the former of these two Votes was then under discussion. It would save a great deal of time if these Estimates were referred to a Select Committee, for the purpose of arrangement, and deciding which should be retained on the Votes and which should be transferred to the Consolidated Fund.

LORD JOHN RUSSELL said, he begged to observe, in reply to the suggestion

of the hon. Member for Manchester, that a Select Committee had been appointed to consider the Estimates only a few years ago, and they had taken a great deal of evidence, which would be found on referring to the Report. On the particular subject before them the Committee had referred to the engagement at the time of the Union, and gave an opinion that the grants should be diminished. Though an inquiry might now lead to a different conclusion, they could not in the present year very well take into consideration any increase of the Estimates for the Dublin hospitals. They should consider the Report of the Committee that had recently sat on the subject before proposing the Estimates for the next year, but he did not think that any alteration could now be made, and he hoped the Committee would agree to the Vote. He did not think it would be necessary to appoint any general Committee, but if there was any point on which further inquiry was necessary he certainly should not object to it.

Mr. BRIGHT said, he had no faith in ordinary Select Committees, for he remembered having sat with the noble Lord on the Salaries Committee, which recommended that reductions should be made in the public salaries to the extent of 75,000*l.* a year, but until this moment that recommendation had been entirely disregarded by the House. What he should wish to see done was, that at the commencement of every Session a Special Committee should be appointed to consider and arrange the Estimates, so that they should not come before the House simply as having been revised by Mr. Secretary this, or Mr. Secretary that, or Mr. Official somebody else, who had an office in Downing Street or its neighbourhood. Such a Committee was usually appointed at the beginning of a Session by the House of Representatives in the United States; while in France, under Louis Philippe and the Republic, a similar plan also prevailed, and he could not see why the experiment should not be tried in this country with an equal chance of success.

Mr. VERNON SMITH said, he should be sorry to see any such permanent Committee appointed.

Mr. BRIGHT: It would not be a permanent Committee; it would be a Committee appointed at the commencement of every Session.

Mr. VERNON SMITH said, even that qualification would not alter his objection

to the Committee, as such a Committee would eventually sink into a mere matter of form, and might even become the vehicle of extravagance, rather than economy. With regard to the particular Vote under discussion, he thought it involved a question of principle—namely, whether they should vote for Ireland what they did not vote for England or Scotland. In both England and Scotland these hospitals were supported by voluntary contributions, and he could see no reason why Ireland should not do the same for her charities, as she was rich enough nowadays in all conscience. The Vaccine Establishment, to which allusion had been made, was open to the people of the three countries, and he deprecated Ireland appealing in *forma pauperis* in this matter.

MR. GROGAN said, he must contend that the evidence on which the Committee had recommended the reduction of these grants was almost *nil*. Such was the feeling of the noble Earl now Foreign Secretary, but formerly Lord Lieutenant of Ireland, with regard to the importance of these hospitals, that notwithstanding the Report of the Committee, he prevailed upon the Treasury to continue them on the reduced scale.

Vote agreed to; as were the remaining Votes—

- (23.) 11,859*l.*, House of Industry.
  - (24.) 500*l.*, Female Orphan House.
  - (25.) 1,215*l.*, Westmoreland Lock Hospital, Dublin.
  - (26.) 500*l.*, Lying-in Hospital.
  - (27.) 795*l.*, Doctor Stephens' Hospital.
  - (28.) 1,900*l.*, House of Recovery.
  - (29.) 250*l.*, Incurables.
- House resumed.

#### RURAL POLICE.

VISCOUNT PALMERSTON said, he would now beg to move for leave to bring in a Bill for the better regulation of the rural police.

Motion made and Question proposed, "That leave be given to bring in a Bill for the better regulation of the Rural Police."

MR. CHRISTOPHER said, he did not wish to offer any opposition to the noble Lord, but he hoped that the noble Lord would not be misled by supposing that there existed a more favourable disposition towards a measure of this description on the part of the counties than there was on the part of the boroughs. With regard to the county he represented, there was a con-

viction that the existing system of police was quite sufficient for all purposes.

MR. MASSEY said, if the present Bill embodied the same objectionable compulsory principle as that contained in the Bill which the noble Lord had withdrawn, he should oppose it.

MR. DEEDES said, he would appeal to the noble Lord whether it was at all advisable at this period of the Session to introduce a new Bill upon the subject of police.

MR. MILES said, he thought there could be only one reason for such a Bill, and that was the change which had been introduced in the law by doing away with transportation and adopting the system of tickets of leave. But that change in the primitive system of the country required that the expense of an additional police force should be borne by the Consolidated Fund, and not be imposed on the county rates.

MR. HENLEY said, he thought the Bill ought to be circulated through the country, in order that its provisions might be known, and, if that were done, the noble Lord could scarcely hope to have time to pass the Bill this Session.

SIR JOHN PAKINGTON said, he hoped the noble Lord would not attempt to press the Bill through this Session. No Bill, he thought, could be satisfactory which did not insist upon the amalgamation of the police of the smaller boroughs with the police of the counties, and he therefore regretted the readiness with which the noble Lord had yielded to the representations made to him from certain quarters. He was inclined, however, to think that the difficulties which the noble Lord had met with proceeded from the manner in which he had dealt with the large towns. He did not sympathise with those who desired to have particular counties excepted. He thought there ought to be one regular and uniform system for all, and he hoped the noble Lord would bring in a measure based on this principle at an early period next Session, so that its provisions might be fully discussed.

VISCOUNT PALMERSTON said, his only wish was to do that which would be best for the interests of the country at large. He quite agreed with what had fallen from the right hon. Baronet opposite, that any measure on this subject ought to proceed on the principle of amalgamating the smaller boroughs with the counties, though in those towns where no separate

quarter sessions were held. the county police having run for run with the borough police, there was not so much need of amalgamation. He firmly believed that before next Session considerable inconvenience would be experienced generally throughout the country from want of a measure of this sort. He felt, however, that he had done his duty in the matter—he had proposed to the House that which he thought the best measure; he had tendered that which he considered the next best; but, if it were the wish of the House that the subject should be postponed until next Session, he should be sorry, by any undue pertinacity, to endanger the success of that system which he believed to be necessary, and to which he was convinced the country must come in the end. If it were the wish of the House, therefore, he was quite willing to withdraw this Motion.

Motion, by leave, *withdrawn*.

The House adjourned at Two o'clock.

## HOUSE OF LORDS,

*Tuesday, July 4, 1854.*

MINUTES.] PUBLIC BILLS.—1<sup>st</sup> Indemnity; Insurance on Lives (Abatement of Income Tax) Continuance; Linen, &c., Manufactures (Ireland); Poor Law Board Continuance; Public Libraries; Merchant Shipping; Turnpike Acts Continuance (Ireland); Union Charges Continuance.

2<sup>nd</sup> Cruelty to Animals; Ecclesiastical Courts; Vice Admiralty Court (Mauritius).

Reported—Customs Duties (Sugar and Spirits); Excise Duties (Sugar); Warwick Assizes.

3<sup>rd</sup> Incumbered Estates (West Indies).

### CRUELTY TO ANIMALS BILL.

Order of the Day for the Second Reading read.

LORD ST. LEONARDS, in moving the second reading of this Bill, said, that he had no intention of entering into a lengthened discussion on the subject, inasmuch as the present measure was merely to correct an omission in a former Bill, relative to which he had presented three very important petitions the other evening. The omission to which he had alluded, and which the clause he proposed to add would remedy, had reference to carts drawn by dogs; and the purport of the new Bill was to extend to all parts of the country the clauses of the Act which had been passed to prevent carts drawn by dogs being used either in London or

within a distance of fifteen miles of London, and to make the provisions of that Bill apply to all parts of the country without exception. Everybody who took the trouble to consider this subject knew very well the nuisance and the danger of these vehicles, and could probably bear testimony to the obstruction, danger, and, oftentimes, the loss of life to which they led. The treatment to which the dogs were subjected very often brought on a species of madness in them, and horses were constantly startled and frightened by the manner in which these dog-carts were driven in crowded thoroughfares.

*Moved*, That the Bill be now read 2<sup>nd</sup>.

THE EARL OF EGLINTON entirely differed from the noble and learned Lord who had moved the second reading of the present Bill, and thought it most desirable that we should avoid, as much as possible, over-legislation in these matters; and he could not but believe that to prohibit the using dogs for a purpose in itself altogether unobjectionable would amount to a case of over-legislation, which he trusted their Lordships were not prepared to sanction. He considered that it would be very unfair to prevent poor persons making use of their dogs to assist them in their work, inasmuch as he believed that their dogs by no means objected to rendering such assistance. As to the objection raised to the probability of dogs becoming mad from being driven in these carts, he looked upon that as perfectly visionary and unstable; and as to horses being frightened by these carts, such a notion was equally insupportable, inasmuch as horses would be frightened at almost anything at times, and it was impossible to legislate so as to please their humours. He had a horse himself once which never would pass a wheelbarrow without shying; but this was no reason why the use of wheelbarrows should be prohibited. He thought such a provision as that now sought to be introduced in the Cruelty to Animals Bill was puerile and unnecessary, and he should therefore move the rejection of the measure.

Amendment *moved*, to leave out "now," and insert, "this day three months."

LORD BROUGHAM said, he should support the Bill. He thought that dogs were not intended by nature to be made use of for purposes of draught; and having applied restrictions in these respects to London and a circuit round it of fifteen

*Viscount Palmerston*

miles, he considered that it would be very unjust to refuse to make the same enactments applicable generally. He was as much opposed to over-legislation as any of their Lordships could be; but he could not regard the present measure as in any way deserving such title.

THE MARQUESS OF WESTMINSTER said, the subject of these dog-carts was one of considerable interest in many parts of the country, and one which really required grave and considerate attention. He considered that the restrictions in reference to London and the circuit of fifteen miles round it ought to be extended to all parts of the country, and he saw no reason why it should not be so applied. Every one knew that the natural position of a dog was to stand on its toes, and that to put a collar on its neck, harness on its back, and weight upon its loins, was virtually forcing it from its natural position into one which it could only be educated to, and that with much suffering and pain. He had received representations from various parts of the country pointing out the cruelty of the practice, and the demoralising effects that attended it. One instance was given in which a man ripped up a dog, and gave its entrails to two other dogs to eat. These dog-carts were, besides, the cause of numerous accidents from frightening horses, and there was scarcely a person accustomed to ride out with his family who did not experience the dangers that arose from this source. The nuisance had already been put down by law in one part of the country, and he did not see why the prohibition should not be extended to other parts, where the evil was quite as strongly felt. He hoped, therefore, that their Lordships would consent to the second reading of the Bill.

LORD HATHERTON made a few observations which were inaudible.

THE EARL OF MALMESBURY, for his part, could not understand the justice of the first clause of the Bill, by which it was provided that the owner of an animal impounded should be liable to pay double the value of the food and water with which it might be supplied. With respect to the second clause, which prohibited the use of dogs as animals of draught, their Lordships must take care that, in putting an end to cruelty to dogs, they were not inflicting injury of another kind. He was able to state to the House, as the result of inquiries which he had instituted, that in the two counties of Sussex and Hamp-

shire there were 1,500 people at least who were earning a livelihood at this moment by driving dogs in these carts, the use of which it was now proposed to prohibit. Every one of those 1,500 persons, if he continued to gain his livelihood in this way, was to be liable by this clause to be imprisoned for three calendar months—a punishment, which, he must say, was greatly disproportioned to the moral turpitude of the offence against which it was to be directed. With respect to the question of cruelty, he must remind the House that if the owners of dogs used for purposes of draught treated them cruelly, they were liable to punishment in the present state of the law; and he really wished his noble and learned Friend seriously to consider whether, in allowing this clause to pass, they would not be acting very cruelly towards those whose means of subsistence would be so seriously affected by its operation.

THE EARL OF GALLOWAY believed that these animals were subjected to very great suffering, and would therefore vote for the second reading of the Bill.

THE DUKE OF ARGYLL denied the soundness of the argument which the noble Earl opposite had deduced from the number of persons who were now using dogs for purposes of draught in the two counties to which he had alluded. Supposing the fact to be as the noble Earl had stated it, he had no doubt whatever that at the time when these dog-carts were permitted to be used in the metropolis there were fully as many as 1,500 persons using them. Did they give those persons compensation when the use of dog-carts was prohibited? If they did not give them compensation, and if they committed an act of injustice then, it might fairly be argued that they might commit an act of injustice now. He did not admit, however, that any injustice was done to those persons at that time, and he did not, therefore, concede that any injustice would be done now.

EARL GRANVILLE said, he had patiently listened to all that had been urged in favour of the second clause of the Bill. The burden of proof clearly lay with those who held that the clause should be enacted, but he must say that in his opinion they had entirely failed in that proof. The case was argued before their Lordships, on the ground that the practice of using dog-carts was attended with cruelty, that it was dangerous to other parties, and that

it was demoralising to those engaged in it. It was said the dog was not a beast of draught. Now, it appeared to him that the very Act they wished to pass, proved that he was a beast of draught. If he was able to draw a cart suited to his strength, he was surely to that extent a beast of draught, and there was one advantage that the dog had over the horse—he had not a rusty bit in his mouth. The noble Marquess behind him spoke of the danger to passers by. There was no doubt, whatever, that there might occasionally be danger from these animals; but, if they were to legislate on everything that caused danger, and on everything that frightened a horse, they might begin with railway trains, and go on till they included wheelbarrows. He had seen a bird flying out of a hedge have a very bad effect on a horse. Then, as to the demoralising effect, he did not think that proved either. His noble Friend said, the practice was demoralising to the performers, but it was not very clear whether he meant to the men or the dogs. He referred to a case of great cruelty which had occurred; but that only proved that the dogs were entirely demoralised, because, as his noble Friend who appeared to be so well up in the natural history of the case said, they proceeded to do that which no dog in a more innocent condition would have been guilty of. As dog-carts were the cheapest mode of conveyance, they were used by the poorest class; and, in reply to what had been said of the respectability of that class, he could only say that if they went into the moral statistics as to costermongers who drove ponies and donkey carts, they would, no doubt, be found to be less respectable than those who drove their carriages and pair; but, if their Lordships should deprive persons of their means of obtaining a living, because they were less respectable than the class above them, they would be adopting a very dangerous principle. Under these circumstances, he did not consider that the case against the dog-carts had been made out.

THE EARL OF CHICHESTER desired to say a few words, in order to correct a mistake made by his noble Friend, who had spoken of the present measure as one which would deprive 1,500 persons in Hampshire and Sussex of the means of obtaining a livelihood. He had made inquiries on this subject, and, as the result, found that the men who used these carts were men of bad character, and they employed this mode of conveyance, not on

*Earl Granville*

account of its expedition, but of its cheapness. The present Bill was generally asked for throughout the country, and he should therefore support it.

THE EARL OF WICKLOW said, that during the present debate, they had not heard a single argument against this measure, but many powerful ones had been urged in its favour. His noble Friend who had moved an Amendment had spoken of the Bill as petty and over-legislative; but as three measures on this subject had passed the House of Commons, and as petitions in their favour had been presented during the present and past Sessions, he considered that the present measure was one for serious and grave deliberation, and not for humorous or witty discussion. Under these circumstances, he trusted that their Lordships would take this measure into their favourable consideration.

THE EARL OF EGLINTON consented to withdraw his Amendment for the present, as he had been informed that the more formal mode of proceeding would be for him to attack the second clause, to which he objected, in Committee.

LORD ST. LEONARDS denied that he had ever had anything to do with the second clause, and he was, consequently, not open to any blame that might be thought to attach to that clause. He regretted that his noble Friend had spoken of him with some asperity, and said that he was influenced by feelings of great humanity; he (Lord St. Leonards) had done nothing to show that he had more humanity than anybody else; he might have as much as the common run of mankind, but he could not lay claim to anything more.

Motion, by leave of the House, *withdrawn*: Bill read 2<sup>a</sup> accordingly, and committed to a Committee of the whole House on Monday next.

#### ECCLIASTICAL COURTS BILL.

Order of the Day for the Second Reading read.

LORD BROUGHAM moved the second reading of the Bill, which had been brought up from the House of Commons, and which would effect, in his opinion, a very great improvement in the course of proceeding in the Ecclesiastical Courts. At present, as their Lordships were perhaps aware, the witnesses in these courts, instead of giving their evidence *vidæ vocæ* in the presence of the Judge by whom the cause was to be decided, were examined upon

interrogatories, and their testimony taken down in writing. The result was, that one person heard the evidence, while another had to dispose of the case. The Court of Admiralty had for some time had the power of summoning witnesses before it, of taking their evidence *visâ voce*, and of directing it to be reduced to writing, in such manner as the Judge of the Court might think fit. The object of the present measure was to extend this salutary provision to the Ecclesiastical Courts, there being no reason whatever why it should not be applied to these as well as to the Court of Admiralty. The witnesses in the Admiralty Court being generally seamen, whose detention in this country would be frequently attended with considerable inconvenience, their affidavits were still generally used, but the power given by the Statute had not been applied so generally as it might have been under other circumstances; but so far as it had been applied, it had been found to work satisfactorily. He could not better illustrate the defects of the present system than by referring to the course which was taken in proceedings against clergymen under the Act for enforcing Church Discipline. The Commissioners whose business it was to institute a preliminary inquiry examined the witnesses *visâ voce*; but these Commissioners had no jurisdiction, their duty being limited to making a report to the bishop as to whether, in their judgment, a *prima facie* case had been established; and it was only when the clergyman consented, that the bishop had the power, on receiving a report in the affirmative, to pronounce sentence at once. If the clergyman did not consent—as generally happened in contested cases—the case had to be carried, by letters of request, to the Ecclesiastical Court, where the evidence was taken in writing in the presence of a person who was not the Judge by whom the decision was to be pronounced, and where the inconvenience which resulted from the Judge not having seen the witnesses was aggravated by this additional evil—that there was frequently a conflict of testimony between the *visâ voce* examinations which had been taken before the Commissioners, and the written depositions which the witnesses had subsequently made. In one such case which had come within his own knowledge, and which had been carried to the Judicial Committee of Privy Council as the court of final appeal, and in which a right rev. Friend of his had been put to an

expense of between 2,000*l.* and 3,000*l.*, the difficulty and the costs had been very much increased by this conflict of testimony. He believed that another right rev. Prelate had been compelled to pay between 3,000*l.* and 4,000*l.*, not one farthing of which he could recover; and it must be admitted that the case was a hard one, if men being placed in situations in which they were bound conscientiously to take a certain course, found themselves burdened, as the result of taking that course—in consequence of the defects of the law, and still more in consequence of the defects in the mode of administering the law—with an intolerable amount of expense. He would not say this Bill would entirely apply a remedy to this great evil, but it would very much diminish the amount of it. He believed, for instance, that in the case to which he last referred, the right rev. Prelate on the bench opposite, instead of having to pay 3,500*l.*, would not have had to pay more than one-fifth that sum, had this Bill been sanctioned by Parliament. He admitted that it could only be called an instalment of Ecclesiastical Court reform, but it was a very important portion, because it went to amend the law of evidence, and he trusted this would only be the beginning of other measures directed to the same object. He begged to move that the Bill be read a second time.

*Moved*, That the Bill be now read 2<sup>a</sup>.

THE LORD CHANCELLOR said, he was convinced the Bill would meet with the entire concurrence of their Lordships, and, before putting the question, was only anxious to express his gratitude to his noble and learned Friend for the measure which he had introduced, and which came so gracefully and properly from him, who, in the last three or four years, had introduced so many analogous reforms with respect to evidence in the other courts. It certainly was a very great anomaly that the Ecclesiastical Courts should not have, under any circumstances, the power of taking *visâ voce* evidence. As his noble and learned Friend said, this was but an instalment of Ecclesiastical Court reform. It would be his duty during the recess to look into the whole subject of the Ecclesiastical Courts with a view to meet the gross evils which existed. It had been often said that lawyers were not the persons to whom the public should look for law reforms. He never would agree in that, as he believed, if they were not the

persons to whom they should look, they never would have any reforms at all; and in confirmation of that remark, much as they were indebted to his noble and learned Friend for the introduction of this Bill, it was to a practitioner in those courts, a Member of the other House (Mr. R. Philimore), that they were indebted for its origination.

LORD CAMPBELL admitted that the present state of the law was most deplorable, and particularly referred to the difficulty and expense of prosecuting offending clerks.

THE BISHOP OF OXFORD said, that it was from no want of the appreciation of the need of legislation in this respect that some measure with relation to it had not already been laid upon the table; but the difficulties in the way of such legislation were enormous. That the Bishops should undertake to introduce such a measure exposed them and their intended legislation to the greatest difficulties. Such a Bill, upon the very showing of it, was to punish the clergy, and not the Bishops, of the Church of England for errors in doctrine and practice, and their Lordships would admit the exceeding difficulty to Bishops of introducing legislation which they were to administer, and of which others were to be the subjects, without those others having the very fullest opportunity of discussing it, and publicly showing to the country their opinion upon it. It was not for him to say how that was to be done; but, possibly, ways might be found in which the clergy of the country consistently with their other duties might most legitimately discuss such measures in public, after which Parliament would advance to the consideration of questions of this nature with the great advantage of knowing what the clergy thought about them. He certainly did not expect to see any legislation upon this most difficult and delicate subject brought to a happy conclusion until those who were to be the special subjects of such legislation should be enabled to state their opinions with respect to it. He could not let this opportunity pass without saying—and he believed that the thoughtful Members of their Lordships' House who attended to the subject, were increasingly coming to that conviction—that Church questions, and especially these most delicate ones, were at present discussed at a great disadvantage, not because the clergy had not the right to settle them first—which he, for one, should never

*The Lord Chancellor*

desire—but because they had not the power of discussing them in public, and letting the Parliament know what they thought upon the matter, and why they thought so. He could only say that in the Commission of which he was a member (the Ecclesiastical Commission), in dealing with the chapters, this difficulty was continually experienced, and the members of that Commission felt that it would be of the greatest possible advantage to them, in giving their recommendations, if they had the means of knowing what the clergy at large thought upon these subjects. It was from no apathy, then, because they were deeply interested in the matter, and from no unwillingness to take their fair share in the legislation of the House, but it was from the inherent difficulties in the way, that the Bishops of England had not taken any steps on the subject.

THE BISHOP OF DOWN AND CONNOR expressed a hope that the measure would be extended to Ireland, since it was calculated to restore confidence in the consistorial courts, to shorten the duration of suits, and greatly to diminish the expenses.

THE EARL OF HARROWBY, as a member of the Commission to which the right rev. Prelate (the Bishop of Oxford) had referred, expressed his hearty concurrence in what had fallen from him with respect to the clergy discussing in public questions of this nature. He thought that it was worth considering whether the ancient machinery of Convocation, which had formerly existed, could not be again revived for this purpose, which appeared to him to be more and more necessary, inasmuch as the Imperial Parliament less and less identified itself with the Church of England.

On Question, *agreed to*; Bill read 2<sup>a</sup> accordingly, and committed to a Committee of the whole House on *Thursday* next.

House adjourned to *Thursday* next.

## HOUSE OF COMMONS,

*Tuesday, July 4, 1854.*

### VALUATION OF LANDS (SCOTLAND) BILL.

Order for Committee read.

House in Committee.

Clauses 1 to 3 *agreed to*.

Clause 4 (Notice to be given to persons whose property is valued).

MR. ALEXANDER HASTIE said, he wished to move an Amendment, the effect

of which was, that the time for giving notice to persons included in the valuation should be extended from the 15th to the 31st of August.

Amendment proposed, in page 3, line 4, to leave out the word "fifteenth," in order to insert the words "thirty-first."

THE LORD ADVOCATE said, he could not assent to the proposed change.

Question put, "That the word 'fifteenth' stand part of the Clause."

The Committee *divided*:—Ayes 39; Noes 15: Majority 24.

SIR HENRY DAVIE moved an Amendment, having for its object that the appeal from the valuation assessors should be to the Commissioners of Supply, instead of the sheriff, or to the magistrates of the burgh, as the case might be.

THE LORD ADVOCATE said, he would not offer any opposition to the proposal.

Clause, as amended, *agreed to*.

Clause 5 (Yearly rent, or value, how to be estimated).

MR. DUNLOP said, he would now move the proviso of which he had given notice.

Amendment proposed, in page 4, line 12, to add at the end of the Clause, the words—

"Provided also, that when lands and heritages are subject to a feu duty or ground annual, the proprietor shall be entitled to relief from the superior or the party in right of the ground annual, and to deduction from the feu duty or ground annual payable by him, of such proportion of all assessments laid on according to the valuations made under this Act, which, in so far as respects to such feu duty or ground annual, such proprietor is not by contract or obligation in his titles, or by law, liable in payment of, and that without relief, as shall correspond to the amount of such feu duty or ground annual as compared with the amount of the valuation of such lands and heritages under this Act."

MR. COWAN said, he would appeal to the Lord Advocate to assent to this proviso, which was in accordance with the demands of public opinion in Scotland.

THE LORD ADVOCATE said, he objected to a renewed discussion of this point, which had been decided by the House on a former occasion. This Bill would not affect the proprietors of land subject to a feu duty in one way or the other, because he intended to add to it a clause enacting that—

"Nothing contained in this Act shall exempt from or render liable to assessment any person or property not now exempt from or liable to assessment."

As far as feu duties were now legally liable to assessment, they would continue liable;

but no new liability would be imposed upon them. His object had been to render this simply a Valuation Act, and not to interfere in any way with the assessments to which different classes of property were liable.

MR. ALEXANDER HASTIE said, that a great boon was always conferred on the public when property was brought within the sphere of taxation which had previously escaped. No property was more valuable than these feu duties, and none was more entitled to bear its due share of taxation. He should vote for the Amendment.

COLONEL BLAIR opposed the proviso, which he said he regarded as a violation of existing arrangements.

MR. DUNLOP said, the proviso would have the effect of preserving existing contracts, but the Bill of the right hon. and learned Lord Advocate would relieve parties, at present liable, from the taxes which they now paid, and would inflict taxes upon those who were neither liable by practice nor law to pay them.

Question put, "That those words be there added."

The Committee *divided*:—Ayes 23; Noes 52: Majority 29.

MR. E. ELLICE said, the Bill as it stood would positively exempt property from taxation which had hitherto been assessed to a very large amount.

THE LORD ADVOCATE said, the notion that the Bill would produce any such effect as that referred to by the hon. Gentleman arose entirely from a misconception. In order, however, to make the matter quite clear, he proposed to add a clause which would provide that nothing contained in the Act should give such an exemption.

Clause *agreed to*, as were also the clauses up to Clause 14.

Clause 15 (New Qualification for Commissioners of Supply).

MR. CRAUFURD said, he objected to the exclusion of burghs from the operation of the clause, and he would propose to insert after the word "county," the words "or within any burgh locally situate therein, or partly within such county, and partly within any such burgh as aforesaid."

THE LORD ADVOCATE said, he must oppose the insertion of those words.

Amendment *negatived*.

MR. CRAUFURD said, he would now move the omission of the proviso at the end of the clause.

Amendment proposed, in page 8, line 25, to leave out from the word "proprietors" to the word "provided," in line 30.

Question put, "That the words proposed to be left out stand part of the Clause."

The Committee divided:—Ayes 56; Nones 26: Majority 30.

Clause *agreed to*.

Clause 17.

MR. COWAN said, that this clause directed the assessment of railways to be made on the basis of their cost. Now, every one knew that a great deal of money had been unnecessarily expended on railways, and he would therefore move that the assessment should be charged not upon the cost, but upon "the value for business purposes."

THE LORD ADVOCATE said, that railways would be assessed upon their actual value. The cost was only to be considered as a criterion of the proportions in which the assessment should be distributed amongst the various parishes through which the railway ran.

MR. COWAN said, he thought it was needlessly complicating the matter to have two assessments, which it seemed would be requisite, according to the statement of the right hon. and learned Lord.

MR. DUNLOP said, he should support the clause. He did not think that the plan which it embraced was at all complicated.

Amendment *withdrawn*.

Clause *agreed to*, as were Clauses 18 to 22. Clause 23 was omitted. Clauses 24 to 28 *agreed to*.

Clause 29.

MR. DUNLOP said, he wished to add the following proviso—

"Provided always, that when the area of any parish church heretofore erected has been allocated among the heritors according to their respective valued rents as appearing upon the present valuation rolls, all assessments for the repair thereof shall be imposed according to such valued rent."

THE LORD ADVOCATE assented to the proviso.

Clause, as amended, *agreed to*.

Clause 30.

MR. LOCKHART proposed the insertion of the following proviso—

"But provided always, that nothing herein contained shall entitle any person claiming the franchise as a proprietor to be enrolled, if his name be objected, and he fail to produce a good sufficient title in the registration court after notice."

Clause, as amended, *agreed to*, as was also Clause 31.

Clause 32.

MR. COWAN said, he proposed to add the following words—

"Provided always, that where more than one burgh contribute to send a Member or Members to Parliament, each such burgh shall, notwithstanding, be held to be distinct and separate burghs for the purposes of this Act, and the magistrates of each burgh respectively shall have and exercise all the powers herein conferred on magistrates of burghs."

This proviso was rendered necessary by the fact that the cities of Glasgow and Aberdeen each contained two boroughs.

Clause, as amended, *agreed to*.

Clauses from 33 to 36 inclusive were then *agreed to*, with verbal amendments.

SIR HENRY DAVIE then moved the insertion, after Clause 12, of an additional clause to the following effect—

"Provided that at all proceedings under this Act, any three Commissioners of Supply, and any three magistrates of a borough, shall be deemed to be a quorum; that at all the meetings of such Commissioners and magistrates, the convener of the county shall be the preses of such meetings, and that the signature of the convener of the county, or of the preses of a meeting of Commissioners of Supply, shall be equivalent to the signatures of the whole Commissioners of Supply present at a meeting thereof."

Clause *agreed to*, and added to the Bill.

MR. E. ELLICE then proposed the insertion of the following clause after Clause 35, namely—

"No minister, or pastor, or preacher, or priest of any Christian congregation of any denomination shall be liable to any rate or assessment in respect of his manse, glebe, or stipend, or the annual salary or emolument of his office, from whatever source derived, anything in the said Act of the 8 & 9 Vict. c. 83, or in any other Act or Acts of Parliament, to the contrary notwithstanding."

THE LORD ADVOCATE said, he would assent to the clause, the object of which he thought unobjectionable.

MR. DUNLOP said, he was inclined to regard the clause with much disfavour, thinking that the boon sought to be conferred upon ministers of religion was one which was quite uncalled for. Besides, it would place the clergy and ministers of religion in an invidious position in their relation to the laity.

MR. CRAUFURD said, he also objected to the principle of the clause, and hoped it would be rejected by the Committee.

MR. DUNCAN said, he thought the wording of this clause would establish a very wide class of exemptions. It would exempt from certain rates and taxes not only persons in holy orders, but all manner of preachers

and lecturers, who in many parts of Scotland were very numerous.

THE LORD ADVOCATE said, he thought, when the Bill was last under discussion, that there was a very general feeling in the House in favour of the principle of this clause. Had he not entertained such an impression, he certainly would not have given it his assent without more deliberation; but, having once approved of it, and an understanding having been previously come to, to agree to its insertion, he could not now depart from the arrangement.

*Clause agreed to.*

MR. STIRLING moved the addition of the following clause, namely—

"From and after the completion of the first valuation under this Act, it shall be in the power of the Commissioners of Supply to assess on the said valuation, and any subsequent valuation, the rogue money and all the other assessments now levied on the valued rent: provided that notice of the resolution so to assess be given at the meeting of the said Commissioners previous to the meeting at which such assessment is to be made; but after such resolution has once been adopted by the said Commissioners, it shall not be in their power to revert to the former mode of assessment."

*Clause agreed to.*

THE LORD ADVOCATE then moved to insert, after Clause 36, the following clause—

"Nothing contained in this Act shall alter or affect any classification or power of classification, or any deduction or allowances, or power of making deductions or allowances from gross rental, made or possessed by any body, persons, or person entitled to impose or levy assessments, but the same shall not affect the value to be inserted in the valuation roll in the terms of this Act; and nothing contained in this Act shall exempt from or render liable to assessment any person or property not at present exempt from or liable to assessment; and within two months after the passing of this Act the Commissioners of Supply of each county, and the magistrates of each burgh, shall hold a meeting and adopt such measures as will enable the first valuation roll under this Act to be made up by the 15th of August, 1855."

*Clause agreed to.*

MR. LOCKHART said, he begged to move, after Clause 35, to insert the following clause—

"Where certain assessments are at present levied according to ploughgates and other ancient measures, and the proportion of such measures effecting to the several lands and heritages within the area of assessment is from time to time regulated by the real rent thereof, such assessment shall, after the passing of this Act, cease to be levied according to such ancient measures, but

shall be levied on the persons and subjects chargeable with the same by a poundage rate on the annual value thereof, according to the valuation to be made under this Act."

*Clause agreed to.*

House resumed; Bill reported as amended.

#### ECCLESIASTICAL COURTS REFORM.

MR. WALPOLE said, that since the Testamentary Jurisdiction Bill came down to the House of Commons, another Bill had been introduced to the House of Lords relating to the questions of matrimony and divorce—a branch of the same subject that fell within the jurisdiction of the Ecclesiastical Courts; and it was not improbable that another Bill would be brought in with regard to Church discipline next year. These three measures would embrace the greater part of the matters affecting the jurisdiction of the Ecclesiastical Courts. He wished to know, therefore, if the Lord President of the Council thought it right to proceed with the Testamentary Jurisdiction Bill this year, and if it would not be advisable to have all the Bills relating to the jurisdiction of the Ecclesiastical Courts before the Houses of Parliament prior to legislating upon any part of that question?

LORD JOHN RUSSELL said, that since he had been last asked respecting this question, he had communicated with the Lord Chancellor upon the subject; it had also been considered by the Government. The Lord Chancellor had introduced to the House of Lords a Bill on the subject of divorce. With respect to Church discipline, however, no Bill had been prepared, though undoubtedly it was a matter that would receive early consideration. He found that there was much difference of opinion with regard to the nature of the Court to which these matters should be referred—whether to a branch of the Court of Chancery itself, or to a separate Court, although not altogether resembling the present Ecclesiastical Courts. These questions were undoubtedly of very great importance, and, considering the late period of the Session, Government had arrived at the determination not to proceed with the Testamentary Jurisdiction Bill. With respect to the Divorce Bill, he believed the Lord Chancellor proposed to make some alterations in that measure, as there was a part of it founded upon the Report of the Divorce Commissioners, which had no reference to Ecclesiastical

Courts or ecclesiastical jurisdiction in matters of real property. It was, indeed, a separate question, and the Lord Chancellor was of opinion that it should be treated separately; but he reserved any decision on that part of the question for the present.

#### NAVAL PRIZES—RIGHTS OF NEUTRALS.

MR. J. G. PHILLIMORE said, he rose to move the Resolution of which he had given notice. He considered that, although the alliance into which this country had entered with France might at the present time render a change of the law necessary, Parliament ought not to be silent on the subject. The general opinion was, that the policy, now for the first time adopted by Her Majesty's Government, would, if it were generally followed, tend to diminish the miseries of war, and if he thought so no person would be a warmer advocate for that policy than himself; but it was because he entertained a different opinion that he troubled the House at that moment. The principle for which he contended was, that every belligerent Power might capture the property of its enemies wherever it was met with on the high seas, and for that purpose should detain and bring into port neutral vessels laden with such property. For that principle he contended, and though he did not object in the present case to what had been done, he wished that that principle should not be entirely abandoned. Two great principles had always been laid down on this subject—first, that the goods of an enemy on board the ship of a friend were lawful prizes; and, secondly, that the goods of a friend on board the ships of an enemy ought to be restored. Those principles ran through the law of England; they had been laid down by the *Consolato del Mare*, confirmed by Grotius, and ratified by his approbation. Vattel, Bynkershoek, and other writers on international law had followed in the same track; the same principle had been established by the old law of France, which was extremely severe on this subject. There had been several private treaties by which this rule had been regulated, and in such a way as to expose the interests of this country to no danger whatever. We had made stipulations with France, with which country we had generally made war by sea, and with Holland, with which we had generally been at peace, so that with neither of those countries were

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we likely to be compromised by acting upon this principle. It was at the time when this country was labouring under the pressure of the American war, and also engaged with the three great maritime Powers of Europe—France, Spain, and Holland—that the Emperor of Russia put forth his pretensions on the subject of neutral ships making free goods; but although this country was then in great difficulties, we refused to give way to those pretensions, and, subsequently to that period, treaties had been frequently made which most fully recognised the provisions on this subject which Russia then disputed. In 1793 Russia herself entered into a convention with Great Britain, in which she engaged to controvert the principle that free ships made free goods; so did Spain, so did Portugal, and afterwards Sweden and Denmark. In 1799 America, by a treaty, recognised the same principle; therefore he thought that he had pretty well established his proposition, that, so far as the great maritime Powers were concerned and the greatest authorities went, there could be no dispute upon the subject, and he defied any person conversant with the works of the chief writers on the law of nations upon that subject to controvert that principle, or to say that it had not formed the basis of international law. But there was another authority still more important, and that was the authority of the American Government. Jefferson wrote upon this subject—

“I believe it cannot be doubted that by the general law of nations the goods of a friend found in the vessel of an enemy, or the goods of an enemy found in the vessel of a friend, are lawful prizes.”

That was the opinion of a man not particularly noted for his partiality to this country, and in answer to a remonstrance in 1793—

“It is true,” said he, “that sundry nations have introduced by treaty another principle, but that is the effect of a particular or special treaty, and not the general principle of the law of nations.”

In the proceedings of Congress in 1795 he observed that a source of complaint had been that the English took goods in merchant vessels, which it was said was against the law of nations and ought to be prevented by them (the Americans); but, on the contrary, they considered it to be an old-established principle in the law of nations, that the goods of a friend, if found in the enemy's vessels, and an enemy's

goods in the vessels of a friend, were lawful prizes. That was also the opinion of the secretary, Mr. Pinckney, and also of Chancellor Kent, who had said that neutral ships did not afford protection to the enemy's property, which might be seized if found on board such a vessel beyond the limits of neutral jurisdiction. Indeed, it was formerly a question whether a neutral vessel itself conveying an enemy's property, was not liable to confiscation, but that principle had been abandoned, in 1793, by the naval Powers of Europe, and was not sanctioned by the existing law of nations. During the whole of the series of wars which grew out of the French Revolution, the Government of the United States admitted the English rule to be a valid one, and that it was the true doctrine of the international law, that an enemy's property was liable to be seized if found on board neutral ships. The same principle was also distinctly laid down by Professor Wheaton, who said they ought not to restore an enemy's property seized in neutral vessels. The answers made by secretaries Pinckney and Jackson were to the effect, that there could not be any doubt with regard to the authority, or much question as to the right of America to insist on this principle. Chancellor Kent had said, there was a marked difference in the principles upon which war was carried on by land and by sea. The object of maritime war was the destruction of the enemy's commerce and of his naval power, and the capture and destruction of private property was essential to that end, and was allowed by the law of nations. But the reason why a different principle was to be observed in continental wars carried on by land was not so clear. Was it true that the same principle did not prevail in continental wars? Was it true that they were carried on with a strictness and regularity as respected private property, which formed a marked contrast to war carried on by naval means? He (Mr. Phillimore) must say, that a careful perusal of history had not led him to form any such conclusion. Was not the earliest thing they read of in reference to this subject, the axiom that wars should always be made to support themselves? Gustavus Adolphus was reputed a humane and enlightened warrior, but he acted upon that principle, so did Marshal Turenne, Frederick the Great himself, and the most renowned French general within the last century, whose instructions were to occupy portions of territory without respect to private right, and they found

such expressions in those instructions as, "the Prince of Waldeck is indisposed; you must seize all you can in his territory." That was the principle of the great Napoleon, and did not our own history show that we had acted upon much the same principle? Let them look at the storming of towns and the sacking of cities described in the history of the Peninsular war. It was, therefore, not true that there was so much more regularity and superiority in carrying on continental as compared with maritime wars, but the case was exactly the other way. The only difference was, that in carrying on continental wars injury to private property was often necessary, whereas in maritime wars it was absolutely essential as a means of weakening the enemy's power. He thought, therefore, the reason of such a proceeding was plain, and that there could not be any kind of doubt whatever of the authority. But, dismissing the question of authority altogether, he would argue it on reason alone, for it was upon that the whole argument turned. He took it for granted that every one desired a principle should prevail which would render war less probable; but the contrary would be the case if the principle that free ships made free goods prevailed, for it tended to increase the probability of war by making it the harvest of neutral nations, and every neutral nation would desire to involve its neighbours in hostilities that it might gain advantages from which at other times it was necessarily excluded. It consequently gave every neutral nation a direct interest in the hostilities of foreign States. On what principle, he therefore asked, did they prohibit neutrals from carrying contraband of war? On what principle did they confiscate a ship that carried despatches to the enemy? On what principle did they prohibit a ship from sailing into a blockaded port? Why, upon this—that they would not allow a belligerent to do by means of a neutral that which it could not do by itself; whereas, by the adoption of the principle that free ships made free goods, they would, instead of locking up their enemy's produce, and, in consequence of the failure of his resources, increasing his desire for peace, allow it to be carried all over the globe, and thus destroy the effect of their own efforts. Surely, if it was desirable that the blood and treasure expended in war should produce any effect, it was desirable that the blood they shed and the treasure they expended should produce the greatest possible return; and the conse-

quence of not allowing it to do so must be that they would have to shed more blood and treasure to accomplish the objects for which the war was originally commenced. The object of war, while it lasted, was to do as much injury as they could to their enemy and to deprive him of the advantages of peace. If they allowed him to enjoy those advantages, of what use was it to expend the blood of their soldiers, and the taxes wrung from the hard labour of the people? His motives for desiring peace would vanish just in proportion as he enjoyed the advantages of peace in the time of war. It was absurd that during a time when they were taxing the revenue of the country and the resources of the people, and inducing them to enlarge those resources as much as possible, with a view to inflicting chastisement upon the enemy, they should enable that enemy, by means of neutral ships, to preserve his commerce, and enjoy those advantages which it would otherwise be impossible for him to obtain. He could perfectly understand the arguments of those who, like his hon. Friends the Members for Manchester (Mr. Bright) and the West Riding (Mr. Cobden) upheld, upon benevolent, though, he thought, very mistaken principles, that war ought to be abandoned, or rather ought never to be undertaken; but if the principle was to be adopted, that being at war they ought not to do the enemy all the mischief they could, and while carrying on war to allow him, in a great measure, to enjoy the advantages of peace, that the blood they shed and the money they spent was not to inflict injury on the subjects of the Power with which they were at war, they had better recall their ships, disband their armies, and lower their flag; but if they thought otherwise, they should certainly not do that which could only have a tendency to neutralise the exertions they were disposed to make. For those reasons he trusted that the House would adopt the Resolution of which he had given notice. He had stated his proofs and given the authorities who appeared to him to be necessary, and he believed, with the exception of some modern writers and a few who wrote with a particular purpose, they were unanimous in their opinions, and gave the strongest reasons, showing that it was a mistaken humanity to suppose that a nation could carry on a maritime war, and at the same time allow their enemy the advantages of peace. He thought he should be justified in that opinion by the authority of every statesman that this country had

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produced up to the present time, and he hoped we should not surrender that bulwark which we had hitherto preserved impregnable, or descend from that strong ground which our ancestors had thought their blood and treasure had been well employed in obtaining for us, and he would admit no principle the effect of which would be to diminish our strength or make us less able to resist either the open or disguised attacks of any earthly despot.

Mr. MITCHELL seconded the Resolution, having promised to do so, but said he could not concur in that part of the Resolution which stated "that, however, from the peculiar circumstances of this war a relaxation of the principle may be justifiable." He believed that no relaxation of the principle relating to the trader of Russia, while we were engaged in war with that country, would be at all conducive to the advantage of the trade of this country, and there was probably not a man well acquainted with Russia who would attempt to dispute that no surer means could be employed to humble that empire than the destruction of her trade. That country exported produce annually to the amount of from 12,000,000*l.* to 15,000,000*l.*, a large portion of which went directly in the shape of revenue to the great Russian landholders. If, therefore, they destroyed that outlet for their produce, there could be no question that its effect would be to deprive the only class, except the Emperor himself, which had any influence upon the Government of the country of their revenue; and the only way of proceeding effectually was to stop the trade of the country, which they could not well do if they allowed the relaxations which had been the subject of discussion. He believed that somewhere about December, when it was pretty certain that war would take place between this country and Russia, two of the most eminent merchants in the Russian trade went to the noble Lord the Secretary of State for Foreign Affairs, and stated to him that they were authorised by the trade to ask whether it would be safe to make the usual advances to Russia, and to enter into the usual trade engagements with subjects of that Power—on which Lord Clarendon, with an almost entire absence of official reserve, told them it would be highly unsafe. The consequence was, that the value of Russian goods declined 20 per cent, and a great discouragement was given to the trade of Russia. A few houses, however, finding the most eminent of the merchants, acting on the opinion

of Lord Clarendon, had abstained from making purchases in Russia, bought considerable quantities of goods at the reduced price, and the moment war was proclaimed they went to the Government and said, "We bought these goods before war was declared, having no idea that it would take place," and they therefore asked to be allowed to have those goods from Russia which they had bought at 20 per cent below what they would otherwise have been worth, and numbers of the Russian vessels were allowed to leave their ports after the declaration of war. In like manner, it had been intimated that Archangel would be blockaded; but they were not told when it would take place, or when goods would be allowed to be removed from it. They had also had an intimation that the Black Sea would be blockaded, and the consequence was, that, owing to the relaxation in question, neutral vessels went there in shoals, obtaining the most enormous freights, and, owing to the unfair operations that were allowed, those who had no scruple about dealing with the enemies of the nation made profits in many cases of 50 per cent, to the manifest injury of the fair and loyal trader. He thought it would be greatly for the advantage of British trade that they should know when it was to take place. There could be no doubt that to a certain extent they could not prevent a transit trade between Russia and Prussia, but the relaxations introduced had enormously extended that trade by preventing the inspection of goods on board neutral vessels. Now, what had been the course adopted by the Government? By a letter, issued, he believed, by the Board of Trade in reply to an inquiry from a merchant in the Russian trade, they learnt that, according to the law of the country, any British merchant buying goods of a Russian, that country being at war with England, such goods would be considered the property of an enemy and seized; but on the 15th of April an Order was issued from the Treasury which entirely abrogated that letter of the 11th, stating that, so long as such goods were not shipped from a Russian port, or in a Russian vessel, it was perfectly free for any one to obtain them, provided the port from which they were to be sent was not blockaded. In consequence of the intimation given on the 11th of April, the English merchants had determined to have nothing to do with the trade, and made their arrangements accordingly, yet on the 15th of April an

Order in Council appeared permitting such trade. He had no hesitation in saying that the manner in which British merchants had been treated by the Government in this matter had been in the highest degree unjust to our traders and injurious to our trade.

Motion made, and Question proposed—

"That it is the opinion of this House, that, however, from the peculiar circumstances of this war, a relaxation of the principle that the goods of an enemy in the ship of a friend are lawful prize, may be justifiable, to renounce or surrender a right so clearly incorporated with the law of nations, so firmly maintained by us in times of the greatest peril and distress, and so interwoven with our maritime renown, would be inconsistent with the security and honour of the country."

SIR WILLIAM MOLESWORTH: The Resolution of the hon. and learned Gentleman (Mr. John Phillimore) contains two distinct positions—one is, that "from the peculiar circumstances of this war a relaxation of the principle, that the goods of an enemy in the ship of a friend are lawful prize, may be justifiable;" the other is, that "to renounce or surrender a right so clearly incorporated with the law of nations, so firmly maintained by us in times of the greatest peril and distress, and so interwoven with our maritime renown, would be inconsistent with the security and honour of the country." Therefore, the Motion of the hon. and learned Gentleman raises two distinct questions—one, a practical question of political expediency; the other, a theoretical question of international law. The theoretical question is, whether the subjects of a neutral State ought to abstain altogether from carrying in their ships the goods of belligerents, and, therefore, whether a belligerent State ought to have the right of confiscating the goods of its enemy, not contraband of war, on board the ships of the subjects of a neutral State. The practical question of political expediency is, assuming that the subjects of a neutral State ought to abstain altogether from carrying in their ships the goods of belligerents, whether it would be wise and politic for this country, in existing circumstances, to confiscate the goods of Russian subjects, not contraband of war, on board neutral vessels; or whether it would be more politic and more expedient to waive for the present that belligerent right.

Sir, with regard to the practical question of political expediency, the hon. and learned Gentleman has admitted in the terms of his Resolution, and also in his speech, that, from the peculiar circumstances of the pre-

sent war, a relaxation of the principle that the goods of an enemy in the ship of a friend are lawful prize may be justifiable. The hon. Member for Bridport (Mr. Mitchell) questioned the expediency of that relaxation, and, therefore, before I sit down, I will assume, for the sake of argument, with the hon. Gentleman, that the principle asserted in this Resolution is a sound one; and then I will endeavour to demonstrate to the House that, in existing circumstances, it was wise, expedient, and proper, that this country should waive for the present the belligerent right in question. But I will commence with the theoretical question which has been raised by the hon. and learned Gentleman.

Sir, the hon. and learned Gentleman asks the House in the terms of his Resolution to declare emphatically that to seize the goods of an enemy in the ship of a friend, is a right so clearly incorporated with the law of nations, and so interwoven with our maritime renown, that to renounce or surrender it would be inconsistent with the security and the honour of this country. Therefore, if the House were to agree to the Resolution of the hon. and learned Gentleman, it would by so doing pledge the honour and reputation of this country to uphold and maintain that position for ever. Now, I will assume, for the sake of argument, that there may be cases in which it may be wise and expedient for this House to limit and fetter its own liberty of action and that of its successors, by laying down abstract rules of conduct; but I think that every one must admit that it ought not to pledge the honour of this country to uphold and maintain for ever any proposition about the truth of which any reasonable doubt may be entertained. Therefore, even in order to induce the House to entertain this Resolution, the hon. and learned Gentleman ought to have clearly demonstrated that the position contained in his Resolution is one which is indisputably true. Has the hon. and learned Gentleman done so? The hon. and learned Gentleman has adduced many learned arguments, and quoted many learned authorities in support of the rule of confiscating enemies' goods on board neutral ships. He has traced the origin of that rule to the dark ages that followed the downfall of the Roman empire; he has shown that in those rude times it was a rule of war on the Mediterranean Sea, and that the first authority for it was the celebrated *Consolato del Mare*, which was probably written in the eleventh century. In

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support of the rule of the *Consolato del Mare*, the hon. and learned Gentleman has referred to the great work of Grotius. With regard to the authority of Grotius on this subject, I must observe that Grotius deduced the rights of war chiefly from the custom and usage of ancient nations, from the sayings of ancient orators, and from the writings of the poets, historians, and philosophers of antiquity; but that since his days many of the rights of war as laid down by Grotius have become obsolete, in consequence of the progress of humanity and civilisation. I must also observe, that nothing can be more bald or meagre than the chapter of the work of Grotius on the subject of the rights of neutrals—namely, the seventeenth of the third book—in which he treated, *De his qui in bello mediis sunt*. The reason for that baldness and meagreness is obvious. Grotius wrote at a period when the rights of neutrals were little understood or cared for; because in his days neutrals scarcely existed, war was contagious—when two belligerents began to fight, the adjacent nations were eager to join in the fray, and few were willing, and still fewer were able, to stand aloof from the conflict.

Sir, the work of Grotius contains only one distinct reference to the rule of confiscating enemies' goods on board neutral ships—namely, in a note to the fourth section of the first chapter of the third book, in which Grotius quotes the rule in question from the *Consolato del Mare*, without expressing either approval or disapproval of it. Therefore, I question, I dispute, I deny the right of the hon. and learned Gentleman to claim Grotius as an authority for the principle that “the goods of an enemy in the ship of a friend are lawful prize.” The hon. and learned Gentleman has also quoted in support of the rule of the *Consolato del Mare* the authority of Bynkershoek and Heineccius, publicists of eminence about the beginning of last century, but nations were then much less civilised and humane than at present. The hon. and learned Gentleman has likewise quoted Vattel. Vattel was, without doubt, an elegant and popular writer, but, according to Chancellor Kent, very deficient in philosophical precision, and nothing can be more laconic than Vattel on the rule in question. He merely asserts it to be a rule of war, without assigning any reason in support of it. The hon. and learned Gentleman has also mentioned the names of several legists learned in the law, who have declared the rule of

the *Consolato del Mare* to be a rule of international law. But, I must observe, that learned legists are apt to assume that what is law ought always to be law. This is a fallacy, which appears to me to pervade the whole argument of the hon. and learned Gentleman, and one which generally pervades the arguments of gentlemen learned in the law; because, as a rule, the more learned the legist, the less inclined is he to diminish the value of his stores of legal lore by reforming the law. The hon. and learned Gentleman has scarcely alluded to the fact that almost all the modern publicists of continental Europe—namely, Hübner, Klüber, De Martens, De Rayneval, Ortolan, Hautefeuille—have condemned the rule of the *Consolato del Mare* as a relic of barbarism, which ought to be removed from the code of the public law of civilised nations, and replaced by the rule “free ships, free goods.”

Sir, I must, however, admit that it has been the practice among European nations for a belligerent State to make prize of enemies' property on board neutral ships, except when restricted from so doing by treaty with the neutral State; and I will also admit, for the sake of argument, that this practice has been held by many high authorities on international law to be in accordance with those rules of conduct between sovereign States which constitute the present public law of Europe. But these admissions do not necessarily warrant the conclusion at which the hon. and learned Gentleman arrived, namely, that the practice in question is right and conformable to what ought to be the public law of nations, though it is in accordance with the present public law of Europe. For the present public law of Europe may, like the municipal law of many of its individual States, be imperfect in some respects and require amendment. Because the present public law of Europe has derived its origin from two distinct sources—partly from those abstract notions of what is right and just, which form what is termed the law of nature; partly from the custom and usage of nations in their intercourse with each other. It is evident that those rules of the present public law of Europe which are based upon correct notions of what is right and just cannot require amendment. Not so those rules of the present public law of Europe which have been founded on custom and usage; for the custom and usage of nations, especially with regard to war, have frequently been at variance with correct notions of what is right and just. The *jus*

*belli*, which has been chiefly founded upon custom and usage, has differed in different nations and in different sets and families of nations. It has varied in the same nation at various periods of its history. It has changed with the change of the religion, manners, and institutions of a nation. Grotius says, “That is often *jus gentium* in one part of the world which is not so in another.” According to Montesquieu,—“Every nation has its own law of nations—even the Iroquois, who eat their prisoners, have one—they send and receive ambassadors, they know the laws of war and peace, but the evil is, that their law of nations is not founded upon true principles.” The question is, is the rule of the English law of nations with regard to the capture of enemies' property on board neutral ships founded on true principles or not? I admit that this rule has been generally acted upon by European States in their wars with each other; but the majority of them have maintained, and still maintain, that the rule in question is an improper one, and have constantly endeavoured, by means of treaties, to expunge it from the public law of Europe, and to substitute for it the rule that enemies' goods should not be liable to confiscation on board neutral ships.

Sir, the hon. and learned Gentleman has stated at some length the chief arguments in favour of his principle, that “the goods of an enemy in the ship of a friend are lawful prize.” As my object is to show that this principle is not so indisputably sound that this House ought to pledge the honour of the country to uphold it for ever, I will refer, as briefly as I can, to the chief arguments which have been urged against this principle and in favour of the rule, “free ships, free goods,” by those persons whom I will call the advocates of the extension of neutral rights. They say, that in the earlier periods of history, and among the less civilised nations, the rules of war were far sterner than at present; that the maxim, that it is lawful for a belligerent to injure his enemy by every possible means was acted upon to the fullest extent; that neutrals scarcely existed, their rights were unknown, and the law of war was the will of the most potent belligerent; but that the tendency of civilisation has been, and still is, to mitigate the severity of the code of war, to establish and enlarge the rights of neutrals, and to protect weak neutrals against the tyranny of powerful belligerents; that this tendency has as yet, however, produced less change in the rules of war by sea than

in the rules of war by land; that at present the rules of maritime warfare are the same as those which were practised in war by land in rude and barbarous ages; that, for instance, private war by land has long been abolished, but private war by sea is still sanctioned by the code of maritime war; that to seize the private property of the peaceful subject of an enemy for the sake of gain is repugnant to the usages of modern war by land, and is an act which would meet with the condemnation of all civilised nations; but to do similar acts on the sea, and even to hire foreign bucaniers, with a licence to pillage peaceful merchants, is conformable to the present rules of maritime war. Now (say the advocates for the extension of neutral rights), though valid reasons may perhaps be assigned why the laws of war should be sterner by sea than by land, why the rights of neutrals should be more limited on the ocean than on the continent, yet no valid reason has ever been assigned for treating neutrals on the sea in a manner in which neutrals on land have never been treated since the existence of neutrals was recognised. They would tell the hon. and learned Gentleman that his principle, that "the goods of an enemy in the ship of a friend are lawful prize," was introduced into the public law of Europe at a period when the rights of neutrals were little understood and less cared for; that it arose from a misapplication to neutrals of the Roman law with regard to the subjects of belligerents. For when the European States that sprang from the dismemberment of the Roman empire began to emerge from the barbarism consequent upon the downfall of that empire, the want of some rules to determine the conduct of Sovereign States towards each other began to be felt, and attempts were made to frame an international law. The early legists who made those attempts were conversant only with the Roman law, and they adopted as rules of their public law many maxims taken without alteration from the Roman law. In this manner a grave error was introduced into the public law of Europe, which has been very injurious to the interests of neutrals. For the Roman law was not a public law of nations, but only the municipal law of the Roman empire. Therefore, the Roman law only determined what ought to be the conduct of the subjects of Rome towards the enemies of Rome; it had no concern with the question of what ought to be the conduct of free and independent neutrals towards the enemies of Rome. The Emperors of

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Rome prohibited, and, as Sovereigns, they were entitled to prohibit, their subjects from trading with an enemy, or carrying on board their ships the goods of the enemies of Rome. The Emperors of Rome punished, and, as Sovereigns, they were entitled to punish, their disobedient subjects with the confiscation, not only of the goods, but even of the ships which contained the goods of the enemies of Rome. Now, the Sovereigns of Europe, in adopting the provisions of the Roman law with regard to trade with enemies, not only applied those provisions to their subjects, to whom they, as Sovereigns, were entitled to apply them, but extended those provisions to neutrals, over whom they had no sovereignty whatever. It is self-evident, however, that because a Sovereign is entitled to issue certain commands to his subjects, and to punish disobedient subjects, it does not follow that the same Sovereign is entitled to issue the same commands to free and independent nations, and to punish the disobedient as if they were his subjects. Now, under the Roman law, the ship upon which the goods of the enemies of Rome were seized, the ship which was confiscated for containing those goods, and the trade which was prohibited with the enemies of Rome, were the ship and the trade of the subjects of Rome, and not of neutrals. By adopting as rules of the public law of Europe the rules of the Roman law with regard to commerce with enemies, the Sovereigns of Europe have at various periods and repeatedly laid claim to and exercised three rights very injurious to neutrals, namely, the right of capturing enemies' goods, not only on board the ships of their subjects, but also on board the ships of neutrals; secondly, the right of confiscating, not only the ships of their subjects, but also the ships of neutrals, for containing enemies' goods; and, thirdly, the right of prohibiting, not only the trade of their subjects, but also of neutrals with the enemy. The two last of these claims have long since been abandoned in theory, though not in practice; the first alone now exists both in theory and practice, but the friends of the extension of neutral rights affirm that it is destined to share the fate of its companions, and ought immediately to be expunged from the public law of civilised nations. They affirm that a neutral State is entitled in reason and justice to say to a belligerent:—

"As a neutral I have nothing to do with your quarrel; you may injure your enemy as much as you like, provided

“that in so doing you do not injure me, who am a neutral; you may hit your antagonist as hard as you can, but you must not strike me, in order to hit him; and if he hurt you, you must not retaliate upon him by hurting me. All that you, as a belligerent, are entitled to demand of me as a neutral is, that I will not take any part against you; that I will not directly succour or aid your enemy; that when you are fighting I will not furnish him with munitions of war; that when you are blockading his ports or besieging his towns, I will not interfere, nor supply him with the means of prolonged defence; but, provided that I abstain from doing these things, as a neutral, I am entitled to carry on with your enemy a trade and commerce as free and unrestricted as he and I may think proper to permit.” For (say the friends of the extension of neutral rights) “the sea is free—Grotius has proved it—Selden was unable to refute him; therefore no portion of the ocean is the exclusive property of any State, except that portion which is temporarily occupied by the ship of a State; over that portion the State whose ship occupies it has for the time sole and exclusive jurisdiction. A neutral ship is a floating portion of the territory of a neutral Sovereign; its inhabitants are his subjects; they are bound to obey his municipal law, and no other law. If they commit crimes on board the ship, they are tried and punished by his penal law; and the ownership of every article of property on board the ship is determined by his civil law.” Therefore (say the friends of the extension of neutral rights, addressing a belligerent Sovereign), “your quarrel, with which the neutral Sovereign has nothing to do, and to which, as a neutral, he ought to be perfectly indifferent, cannot lessen his rights on the free ocean, cannot entitle you as a belligerent to interfere with his floating territory more than with his fixed territory. But it must be admitted that the subjects of a neutral Sovereign, the inhabitants both of his floating territory and of his fixed territory, ought not to directly aid or succour your enemy. For if he were to sanction such conduct on the part of his subjects he would cease to be a neutral, and would become your enemy. Therefore he ought to prohibit the inhabitants both of his fixed and of his floating territory from directly aiding and succouring your antagonist;

“and he ought to authorise you as a belligerent, and you ought to be authorised by the law of nations, to enforce that prohibition by visiting his ships and confiscating contraband of war, and by seizing his vessels in the event of their attempting to break through your blockade. But, though it must be admitted that the subjects of a neutral Sovereign ought to abstain from doing those things, the evident aim and intent of which are to directly succour and aid your antagonist—ought to abstain from all acts which, if done by his commands, or by his ships of war, would justify you in treating him as an ally of your enemy—yet it does not follow that the subjects of a neutral Sovereign are bound to abstain from doing those things which, without directly succouring and aiding your antagonist, may tend to benefit and enrich him, and, by enriching him, may tend to strengthen him, and, by strengthening him, may tend to render it more difficult for you to vanquish and overcome your enemy. For you must admit that the established and universally recognised laws of European warfare permit the subject of a neutral Sovereign to do many things of this description; that, according to the present public law of Europe, he is entitled to trade with your enemy in every description of goods except contraband of war; he is entitled to enter any one of your enemy's ports which is not strictly blockaded; he is entitled to load his ships with goods and merchandise of the growth or manufacture of your enemy; he is entitled to carry off those goods and merchandise, and to sell them in other ports. You cannot deny that the subject of a neutral Sovereign is entitled by the law of nations to do all these things, but you affirm that he must do them subject to this strange and extraordinary condition, that during the period that he is carrying the goods in question from one port to another they should legally cease to belong to your enemy.” And (say the friends of the extension of neutral rights), “in order to ascertain whether this strange and extraordinary condition is fulfilled, you claim, as a belligerent, the right of stopping neutral ships on the highway of the free ocean, not only for the purpose of ascertaining their nationality, not only for the purpose of preventing them from carrying contraband of war to your enemy or breaking your blockade, but also

“for the purpose of searching and minutely inquiring and examining into the legal ownership of every article of property on board neutral ships; and if you find anything on board a neutral ship which you fancy belongs to your enemy—any property the purchase of which from your enemy you suspect has not been completed according to the strict and technical rules of your law—you claim, as a belligerent, the right of detaining the neutral ship, and of compelling it to change its route and enter one of your ports, in order that your judges may inquire into and determine the ownership of the property in question; and if your judges decide that, according to the technical rules of that portion of your municipal law which you call the law of nations, the purchase of the property in question has not been completed, and that its legal ownership is still vested in your enemy, you claim the right of confiscating that property.” And (say the friends of the extension of neutral rights), “you claim the right of causing these powers to be exercised, not only by the commanders of your regular ships of war, over whom you have direct control, and who are gentlemen, and have the honour and interest of their country at heart; but you claim the right of delegating these powers—at all times odious and vexatious, and which may be used to the great detriment and injury, and even destruction of the trade and commerce of neutral States—to the freebooters, bucaniers, and foreign cutthroats who man your privateers, over whom you have little or no control—scourges of the ocean, whose object is plunder, and who can only be distinguished from pirates by the mark of your license to pillage.” Now (say the friends of the extension of neutral rights), “your *status*, as a belligerent, gives you no more right to enter a neutral ship to search for your enemy’s property, than to enter a neutral port to search for your enemy’s ships. As long as you and the neutral Sovereign are at peace you have no right to meddle with any property on board a neutral ship except contraband of war. For on board a neutral ship the neutral Sovereign is sole and independent; and, in virtue of his sovereignty, all property on board the ship belongs in fact to him, for he can dispose of it, and does dispose of it, according to his will and pleasure as

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declared in the rules of his municipal law. Therefore, as long as you and he are at peace, you have no right to ask any questions about any property on board a neutral ship—either how he became possessed of it, or upon what conditions he acquired it; whether he paid for it in hard cash, or obtained it on credit; whether he holds it for his own use or in trust for anybody else. To insist upon asking these questions—to insist upon determining them in your courts of law—to exercise any power over a neutral ship which the neutral Sovereign neither concedes to you nor admits that you are entitled to exercise according to what ought to be the rules of international law—are acts of violence to which neutrals have submitted only when neutrals have been weak and belligerents strong, and which neutrals have resisted, and will again resist, whenever strong enough to defend their rights.”

Such, Sir, is the language which the friends of the extension of neutral rights consider that they are entitled to hold towards every belligerent power that claims the right of confiscating enemies’ goods not contraband of war on board neutral ships. They would tell the hon. and learned Gentleman that the position to the eternal maintenance of which he would pledge the honour of this House and country, so far from being indisputably true, is demonstratively false. And very many nations would agree with them. For at various times the great majority of European States have been induced, partly by argument, partly by self-interest, to condemn the rule of capturing enemies’ goods on board neutral ships, and they have repeatedly endeavoured, by treaties and conventions with each other, to expunge that rule from the public law of Europe, and to substitute the rule that free ships should give freedom to the goods which they contain.

Sir, I have carefully examined a large proportion of the treaties of peace and commerce, which during the last two centuries have been concluded between the chief Powers of the civilised world. I find that during the century and a quarter that preceded the French Revolution, the all but invariable rule of amicable relations, as established by treaty, between the great maritime powers of western Europe, namely, between England, France, Spain, the United Provinces of Holland, and Portugal,

was "free ships, free goods;" that is, that the goods of the enemies' of one contracting Power, being a belligerent, should not be liable to confiscation on board the ships of the subjects of the other contracting Power, being a neutral. This rule is contained in almost every one of the treaties of peace and commerce which England concluded in the latter part of the seventeenth century, and in the eighteenth century, with the Powers I have just mentioned. This is an important fact. I think it affords so strong a precedent for the policy which Her Majesty's Government have adopted, that I will briefly enumerate the treaties to which I refer.

The first English treaty on record which contains the principle "free ships, free goods," was that of Westminster, in the year 1654, concluded between John IV., King of Portugal, and that warrior and statesman, than whom none greater ever ruled the destinies of this nation, who made the name and flag of England respected on every sea, and whose alliance was courted by all the monarchs of Europe. In the 23rd article of that treaty it was declared "that all the goods and merchandise of the enemies of the said republic or king, found on board the ships of either, or their people, or subjects, shall remain untouched." This treaty was confirmed by the treaty of Whitehall, of 1661 (the marriage treaty between Charles II. and the Infanta of Portugal). It was re-confirmed by the defensive treaty of Lisbon in 1703 (the year of the famous Methuen treaty), and it continued unaltered till the year 1810, when, by the 26th article of the treaty of Rio de Janeiro, "the power of carrying in the ships of either country goods and merchandise the property of the enemies of the other country was renounced and abrogated." Therefore, for 156 years the invariable rule of our amicable intercourse with Portugal was "free ships, free goods."

I will next pass in review our treaties with France. In the year 1655 the Lord Protector concluded a treaty of peace with Louis XIV., in the 15th article of which it is declared that—"Omnes naves ad subditos et populares alterutriusque pertinentes, et in mari Mediterraneo, Orientali seu Oceano negociantes, liberæ sint, atque etiam onus suum liberum reddant, licet, in illas invehantur mercimonia imo grana, leguminave quæ alterutrius hostium sint." How long the treaty of

1655 continued in force I am unable to say. It was not renewed by the treaty of peace of Breda, in 1667. I will, therefore, proceed to the year 1677, in which we concluded with France the treaty of commerce of St. German en Laye. The 8th article of that treaty declared that "merchandise of the enemies of the most Christian king shall not be taken or confiscated if they are found on board the ships appertaining to the subjects of Great Britain, though the said merchandise make up the best part, or the whole, lading of the said ships, but still, with an exception to contraband of war;" and similarly with regard to the merchandise of the enemies of Great Britain on board the ships of the most Christian king. These stipulations were the rule of our amicable relations with France, as established by treaty, for the next 116 years. In the period which elapsed from 1677 to 1793 we concluded with France five treaties of peace, and three treaties of commerce. For instance, we concluded in 1677, as I have already said, the commercial treaty of St. German en Laye; next, in 1697, the treaty of peace of Ryswick; then, in 1713, the treaties of peace and commerce of Utrecht; in 1748, the treaty of peace of Aix-la-Chapelle; in 1763, the treaty of peace of Paris; in 1783, the treaty of peace of Versailles; and in 1786, the treaty of commerce and navigation of Versailles. Now, in every one of these treaties, except the treaty of peace of Ryswick (which contains no reference to the trade of one contracting party with the enemies of the other, and which lasted only for five years), I have found an article which either expressly contained the provision that the flags of France and England should protect the goods of their respective enemies, or which renewed the commercial treaty of Utrecht of 1713, which contained that provision in the fullest manner. I should observe that the commercial treaties of Utrecht, of 1713, were the bases of the commercial relations between France, England, and Spain, before the wars of the French Revolution, and they still are the basis of the commercial relations between this country and Spain, and between Spain and France. I will read an extract from the 17th article of the commercial treaty of Utrecht between England and France:—"It shall be lawful for all the subjects of the Queen of Great Britain and of the most Christian King to sail with their

"ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandise laden thereon, from the places, ports, and havens, of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same prince or under several. And as it is now stipulated concerning ships and goods that free ships shall also give freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either of their Majesties, contraband goods being always excepted." The 17th article of the treaty of commerce of Utrecht was repeated verbatim in the 20th article of the treaty of commerce of Versailles of 1786. This treaty terminated with the war of 1793. I have shown, therefore, that from 1677 to 1793, the all but invariable rule of our friendly intercourse with France—the rule for at least seventy-five years out of eighty years of peace—was that free ships should give freedom to goods. It is worthy of remark, that by the commercial treaty of Utrecht of 1713, which continued in force, except during periods of war, for the subsequent eighty years, the subjects of one party were entitled by treaty to carry on the coasting and colonial trade of the enemies of the other party.

I will now refer to our treaties with Spain. The first, which contained the principle that free ships shall give freedom to goods, was the treaty of Madrid, concluded in 1665. From that period to 1796, a period of 131 years, no less than thirteen treaties of peace and commerce were concluded with Spain—namely, in 1665 the first treaty of peace and commerce of Madrid to which I have already referred; in 1667 another treaty of Madrid; in 1670 a third treaty of Madrid; in 1680 the treaty of Windsor Castle; in 1707 the treaty of commerce of Barcelona; in 1713 the treaties of peace and commerce of Utrecht; in 1715 the treaty of commerce of Madrid; in 1721 the treaty of peace of Madrid; in 1729 the treaty of

peace of Seville; in 1748 the treaty of peace of Aix-la-Chapelle, confirmed by the treaty of Madrid of 1750; in 1763 the treaty of peace of Paris; and 1783 the treaty of peace of Versailles. In every one of these treaties there is an article which either expressly declares that free ships shall give freedom to goods, or renews a treaty which contains that provision. Therefore, for the 131 years, ending with the year 1796, the invariable rule of our amicable intercourse with Spain, as established by treaty, was "free ships, free goods." It is worthy of remark that the first additional article of the treaty of Madrid of 1814 ratified and confirmed all treaties of commerce which subsisted between England and Spain in 1796, and consequently confirmed many treaties, and among others the treaty of Madrid of 1667, which contained the principle that "free ships shall give freedom to goods." The treaty of 1814 is still in force. Consequently, the subjects of Spain are now entitled by that treaty to carry in their ships the goods of the subjects of Russia, and if we were to seize Russian merchandise on board Spanish ships, we should be guilty of a breach of treaty.

With reference to our treaties with the United Provinces, the first, which contained the rule that free ships shall give freedom to goods, was signed at Breda in 1667. It contained as a temporary rule of maritime commerce between England and the United Provinces seventeen articles extracted from a treaty of commerce between France and the United Provinces, which was concluded at Paris in 1662. The same articles were repeated in the marine treaty of the Hague in 1668. They were temporarily renewed by the treaty of peace of Westminster in 1674. They were extended by the marine treaty of London of 1674, and by the explanatory declaration of the Hague of 1675, which declared that the ships of either contracting power might carry on the coasting and colonial trade of the enemies of the other. These treaties were reconfirmed in 1685, 1689, 1703, 1711, and 1716, and continued in force down to the war of 1780, but were not renewed by the treaty of peace of Paris, in 1784. Therefore, from 1667 to 1780, the invariable rule of our friendly intercourse with the United Provinces as established by treaty, that is, the rule for 111 years of peace was, that the ships of the United Provinces should make free the goods of the enemies of England, and be

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entitled to carry on the coasting and colonial trade of the enemies of England, and reciprocally.

Sir, the treaties between England and the great maritime powers of Western Europe, to which I have referred, show that in the interval between 1654 to 1793 we were six times at war with France, seven times at war with Spain, and three times at war with the United Provinces. We terminated those wars by six treaties of peace with France, seven treaties of peace with Spain, three treaties of peace with the United Provinces, and during the same period we concluded with the same powers and Portugal eighteen treaties of commerce or other conventions, in all thirty-four international engagements, of these only three—namely, two with France in 1667 and 1697, and one with the United Provinces in 1784, did not contain any provision with regard to the treatment of enemies' goods on board neutral ships, but all the other treaties of peace contained an article, which provided that the ships of one contracting party, being a neutral, should make free the goods of the enemies of the other contracting party, being a belligerent. I think, therefore, that I have made good my position that, during the century and a quarter which preceded the wars of the French Revolution, the all but invariable rule of our friendly relations, as established by treaty, with the great maritime powers of Western Europe was, "free ships, free goods." I think, therefore, that it would be difficult for this House, in the teeth of these facts, to agree to the resolution of the hon. and learned Gentleman, and to declare that it would be inconsistent with the maritime renown, the security, and honour of this country, to do the very thing which, for a century and a quarter, we generally did when we concluded a treaty of peace or commerce with France, Spain, the United Provinces, or Portugal. For we renounced and surrendered as long as those treaties lasted the right of confiscating enemies' goods in the neutral ships of those powers, and but for the wars of the French Revolution most of those treaties would still be in force.

Sir, the rule "free ships, free goods," is invariably to be found in the treaties of peace or commerce which were concluded between the other great maritime Powers of Western Europe during the century and a quarter which preceded the French Revolution. For instance, in the treaties of

peace between France and Spain, that rule first appeared in the treaty of the Pyrenees of 1659, which was confirmed by that of Aix-la-Chapelle in 1668, and by that of Nimeguen in 1678. It was also contained in the treaty of Madrid of 1721. It was renewed and confirmed by the treaty of Seville of 1729. The family compact of 1761, as explained by the convention of 1768, declared that the subjects of France and Spain should enjoy all the privileges and favours accorded, or to be accorded, to other nations by treaties, and especially by the treaty of Utrecht of 1713. These treaties continued in force till the wars of the French Revolution. And in 1814, by the second additional article of the treaty of Paris, the commercial relations between France and Spain were re-established on the footing on which they were in 1792. Therefore, the treaty of Utrecht of 1713 forms at present the basis of the commercial relations between France and Spain, and, consequently, Spanish subjects are now entitled, by treaty with France, as well as with England, to carry in their ships Russian merchandise without danger of confiscation. In the treaties between France and the United Provinces, the rule that the ships of the one contracting party should make free the goods of the enemies of the other contracting party, was contained at length in the treaty of commerce of Paris of 1662, to which I have already referred; in that of Nimeguen of 1678, in that of Ryswick of 1697, in that of Utrecht of 1713, in that of Versailles of 1739, and in the treaty of alliance of Fontainebleau of 1785.

In the treaties between Spain and the United Provinces, the rule that "free ships should give freedom to goods," was first contained in that of Munster of 1648, as fully explained in the marine treaty of the Hague of 1650. The rule was stated at length in the treaty of the Hague of 1673, and the declaration of Brussels of 1676 explained that the subjects of either contracting party might carry on the coasting and colonial trade of the enemies of the other party. The marine treaty of 1650 was renewed word for word in the treaty of commerce of Utrecht of 1714; it continued in force till the wars of the French Revolution; and I believe is still referred to by the two nations as containing the principles of their commercial relations as established by treaty. In the treaties between Spain and Portugal, the rule "free ships, free goods," was contained in the

treaty of Lisbon of 1668; for it declared that the relations between the two countries should be the same as those established between Spain and Great Britain respecting commerce and its immunities by the treaty of Madrid of 1667. The treaty of Lisbon was confirmed by that of Utrecht of 1715, by the accession of Portugal to the treaty of Paris of 1763, and by the treaty of the Pardo of 1778. The rule, "free ships, free goods," was also contained in the treaty of the Hague of 1691, between the United Provinces and Portugal, and continued in force till the wars of the French Revolution.

Sir, I believe that I have now referred to every, or almost every, treaty of peace or commerce which was concluded between the great maritime Powers of Western Europe, from 1654 to 1793. These treaties contain fifty-seven bilateral engagements, of these I can only find three—(namely, the treaty of peace of Breda, between France and England, in 1667, that of Ryswick, between the same Powers, in 1697, and the treaty of peace of Paris in 1784, between England and the United Provinces), which did not directly or indirectly contain the rule, that "free ships should give freedom to goods." Every one of the remaining fifty-four bilateral engagements contained that rule, either expressly, or by expressly renewing and confirming treaties that contained it. Many of these engagements declared that the subjects of one contracting party, being a neutral, might carry on the coasting and colonial trade of the enemies of the other contracting party, being a belligerent. I have, therefore, shown that for the century and a quarter before the wars of the French Revolution, the all but invariable rule of amicable relations, as established by treaty between the great maritime Powers of Western Europe, was, that "free ships should give freedom to goods."

Sir, I must, however, admit that the theory of the great maritime Powers of Western Europe respecting the rights of neutrals on the ocean, as expressed in treaties of peace and commerce, was altogether at variance with their custom and usage, their practice and edicts during war. The reason is obvious. During peace men's minds are frequently calm and collected, reason and justice have some influence over them, and the tendency of treaties of peace and commerce is to conform to what ought to be the

rules of international law. But in war, passion and hatred, and seeming necessity, and the fancied interest of the moment, are apt to determine the actions of combatants, and powerful belligerents relying on their might, oftentimes set at defiance the best established rules of war. If the maritime rights of neutrals during war were to be inferred from the custom and usage of the great maritime belligerents of Europe during the last two centuries, the inference must be that neutrals on the ocean have few or no special rights by which they can be distinguished from the subjects of belligerents. For, during that period, every one of the great maritime Powers of the West has repeatedly treated neutrals as subjects, applied to them (as I have already said), all the provisions of the Roman law with regard to trading with enemies, has confiscated not only enemies' goods on board neutral ships, but confiscated neutral ships for containing enemies' goods, and prohibited all neutral commerce with enemies.

To show how impossible it would be to deduce the maritime rights of neutrals from the custom and usage of the maritime belligerents of Western Europe, I will mention a few instances in which those powers have, during the two last centuries, flagrantly violated undoubted neutral rights. In 1652, the United Provinces threatened to treat as an enemy any foreigner who should carry any merchandise to England, and to punish him with the confiscation both of his ship and merchandise. In 1689, the United Provinces and England concluded a convention, in which they declared a blockade of all the ports of France, and prohibited neutrals from trading with France under the penalty of the confiscation both of their ships and goods. In 1543, 1584, 1681, 1692, France issued edicts, by which the ships of neutrals were to be confiscated for containing enemies' goods. The French edict of 1704 contained not only the well-known rule, "*Que la robe d'ennemi confisque celle d'un ami*," but also declared that merchandise of the growth or manufacture of the enemies of France, to whomsoever belonging, should be confiscated whenever found on board the ships of neutrals. The latter rule, but without the former one, was repeated in the edict of 1744, and continued in force till 1778, when a French edict established the rule, that "free ships should make free goods," and that rule, I believe, at present forms part of the maritime law of

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France. The conduct of Spain towards neutrals during war has been the same as that of France. The Spanish regulations of 1702 and 1718 are said to have been founded upon the French edicts of 1681 and 1704, by which, as I have already said, neutral ships were confiscated for containing an enemy's goods, and merchandise of the growth or manufacture of an enemy, to whomsoever belonging, was confiscated on board neutral ships. These regulations were repealed by the Spanish edict of 1779, which adopted the rule that "free ships should make free goods." Nor has this country in periods of war shown greater respect than our neighbours for the rights of neutrals. By means of fictitious blockades we have repeatedly claimed the right of stopping the trade of neutrals with our enemies. For instance, in 1689, as I have already said, in company with Holland, we declared a blockade of all the coasts of France, without sending a single ship to enforce the blockade; and we prohibited neutrals from trading with France under the penalty of the confiscation both of their ships and their goods. This was the famous "cannon law," as our third William called it; for it had no other sanction, human or divine, save the force of a bullet. In 1756, we prohibited the Dutch from trading with the Colonies of France, and laid down the famous rule of war of that year, in virtue of which we claimed a right of prohibiting all neutral traffic with the Colonies, and on the coasts of an enemy. This rule was much contested by the United States and other powers, and was a fruitful source of contention between them and us. Again, in 1793, we concluded treaties with Spain, Prussia, Russia, and the Emperor of Germany, for the purpose of forbidding neutrals to trade with France. Lastly, in the war that followed the peace of Amiens, the combatants retaliated the blows which they aimed at each other by striking neutrals, and vied in disregarding neutral rights. According to Alison, the rage of belligerent Powers and the mutual violation of the law of nations could not go beyond our orders in council and the Berlin and Milan decrees.

Sir, in consequence of the conduct which was pursued towards neutrals by the maritime Powers of the west of Europe in their frequent wars, the Powers of the north of Europe, who were generally neutrals in those wars, repeatedly formed leagues to defend their rights as neutrals, and took up arms for that purpose. The first armed

neutrality, as these leagues were termed, was a convention in 1693 between Sweden and Denmark, to resist by force of arms the execution of the convention between the United Provinces and England to put a stop to all neutral trade with France. This armed neutrality seems to have been successful, and the allies had to abandon their project. In the war of 1744, in consequence of our searching, detaining, and capturing enemies' property on board Prussian vessels, the King of Prussia refused to pay the interest of the Silesian loan until we had made reparation to his subjects by a payment of 20,000*l*. The second and most celebrated armed neutrality was in 1780. Its objects were to resist our rule of war of 1756 with regard to trading with the Colonies or on the coasts of our enemies, and to establish the rule, that "free ships should make free goods." This armed neutrality consisted of conventions, which Russia concluded with Denmark, Sweden, Prussia, Austria, Portugal, and the two Sicilies, and to which Spain and Holland acceded. It attained its object, and in the treaties of peace which we concluded in 1783 with France and Spain, we recognised, as far as those two Powers were concerned, the main principles of the armed neutrality of 1780, and renewed the treaties of Utrecht, which contained the rule, "free ships, free goods." The third armed neutrality was concluded in 1794, between Denmark and Sweden, for the protection of their trade during the war of the French Revolution. It was not successful. The fourth armed neutrality, the principles of which were the same as those of the armed neutrality of 1780, was formed in 1800 by treaties which Russia concluded with Sweden, Denmark, and Prussia. This armed neutrality was speedily brought to an end by the murder of the Emperor of Russia. The stipulations of the armed neutrality of 1780 were confirmed by the treaty of commerce of St. Petersburg of 1783, between Russia and Denmark, which was renewed by the treaty of peace of Hanover of 1814. The stipulations of the armed neutrality of 1800 were contained in the treaty of commerce of St. Petersburg of 1801, between Russia and Sweden, which was prolonged by the treaty of peace of Frederichsham of 1809; and they are also to be found in the treaty of commerce of Copenhagen, which was concluded in 1818 between Denmark and Prussia. These treaties and leagues show how anxious the northern Powers have generally been to expunge

the rule of confiscating enemies' goods on board neutral ships from the public law of Europe, and to substitute the rule, "free ships, free goods."

Sir, I must acknowledge, however, that the rule, "free ships, free goods," is not contained in some of the treaties between the Northern and Western powers, treaties to which the hon. and learned Gentleman has referred; for instance it is not contained in the treaty of commerce of Copenhagen, concluded in 1670 between Great Britain and Denmark, which was renewed by the treaty of Kiel of 1814; nor is it contained in the treaties between Great Britain and Sweden, signed at Upsal in 1654, at Westminster in 1656, at Whitehall in 1661, and all of which were confirmed by the treaty of Orebro of 1812. These treaties are still in force, and from various articles in them the inference may be fairly drawn that we are now entitled by treaty to confiscate enemies' goods on board neutral ships belonging to Denmark or Sweden. Nor was the rule "free ships, free goods," contained in any of our treaties with Russia; on the contrary, in the marine convention of St. Petersburg, of 1801, to which Sweden and Denmark acceded, the second article declared that enemies' goods should not be free on board neutral ships. On the other hand, the treaties which Russia concluded with Austria in 1785, with France in 1787, and with the Two Sicilies in the same year, contained the stipulations of the armed neutrality of 1780. The rule, "free ships, free goods," is also to be found in the treaties between Russia and Portugal of 1787 and 1798, the latter of which was renewed by the declaration of 1815. In the treaties between Denmark and France, the rule, "free ships, free goods," was contained at length in the treaty of Paris of 1663; also in the treaty of commerce of Copenhagen of 1742, which likewise declared that the ships of either state might carry on the coasting and colonial trade of the enemies of the other state. The treaty of Copenhagen was continued by the convention of Versailles of 1749, it was confirmed by the treaty of Copenhagen of 1813, and according to eminent French authorities, namely, D'Hauterive and Hautefeuille, is still in force between France and Denmark. Consequently, at present the Danes are entitled by treaty with France to carry Russian goods from one Russian port to another Russian port, the ports not being blockaded. The rule, "free

ships, free goods," was also contained in the treaty of commerce of St. Ildefonso of 1792, between Denmark and Spain, which, I believe, was re-established by the treaty of peace of London of 1814; and also in the treaty of commerce of Nimeguen of 1679, between Sweden and the United Provinces, which was renewed by the treaty of Berlin of 1686. I believe that I have now referred to every or nearly every international engagement of the two last centuries between the Northern powers, and between them and the Western powers, which contained a stipulation with regard to the goods of an enemy on board the ship of a neutral. There were several that contained no stipulations on this subject; but those that did were about forty in number. Of them only nine (to every one of which England was a party) stipulated that the goods of an enemy in the ship of a friend should be lawful prize. The remaining thirty-one contained the rule, "free ships, free goods," and many of them contained the principles of the armed neutralities of 1780 and 1800.

Sir, I must observe that the armed neutrality of 1780 was an offspring of the American war of independence. The United States at once declared in favour of its principles, and adopted its provisions as rules of the public law of the New World. In 1783 the United States concluded at Paris a treaty of commerce with Sweden, which contained the rule, "free ships, free goods." This rule was renewed and confirmed by the treaty of commerce of Stockholm of 1816, and again by the treaty of friendship and commerce of Stockholm of 1827, and is still in force between the United States and Sweden. In 1785 the United States concluded with Prussia the treaty of the Hague, which also contained the rule, "free ships, free goods." This rule was temporarily suspended by the treaty of commerce of Berlin of 1799, but was restored to full vigour by the treaty of commerce of 1828, in which the United States and Prussia declared their desire to aid the cause of civilisation and humanity, and to concert with the other maritime powers stipulations which would guarantee a just protection and liberty to the commerce and navigation of neutrals. This treaty is still in force. In 1778, the United States concluded with France the treaty of friendship and commerce of Paris, the 25th article of which contains the stipulation, "free ships, free goods;" and the same stipulation is to be

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found in the convention of Paris of 1800. The treaty of friendship and commerce of the Hague of 1782, between the United States and the United Provinces, contained the principles of the armed neutrality of 1780; but in 1794 the United States temporarily disregarded those principles by concluding with England the treaty of friendship and commerce of London, which contained the principle, that the "goods of an enemy in the ship of a friend are lawful prize." However, in 1795, the United States concluded with Spain the treaty of friendship and navigation of San Lorenzo-el-Real, the 12th article of which contained the rule, "free ships, free goods." It was renewed by the treaty of Washington of 1819; but with this reservation, that the rule should only be acted upon when all the belligerents assented to it; for example, the ships of the United States, being a neutral, were only to render free the goods of the enemy of Spain, being a belligerent, when the enemy of Spain also acted upon the rule "free ships, free goods."

Sir, you will remember, that about thirty years ago the South American colonies of Spain shook off the yoke of their mother country and became independent; they then entered into negotiations with the United States. In those negotiations the United States declared that the rule of public law, that the property of an enemy is liable to capture on board the vessels of a friend, has no foundation in natural right, and, though it be the established usage of nations, rests entirely on the abuse of force. For these reasons, the rule "free ships, free goods," is to be found, I believe, in every treaty which the United States has concluded with the States of South America; for instance, with Colombia in 1824, with the States of Central America in 1825, with Brazil in 1828, with Mexico in 1831, with Chili in 1832, with Bolivia in 1836, with Venezuela in the same year, and with Equador in 1843. I should observe that in almost all these treaties with the States of South America, the United States stipulated that the rule "free ships, free goods," should only be enforced when all the belligerents assented to it; for though they maintained in the strongest manner that the rule in question ought to be contained in the public law of nations, yet they asserted that if one belligerent were to act upon that rule, and the others were to

adopt the contrary rule of confiscating enemies' goods on board neutral ships, the belligerent who acted upon the right rule would be unjustly damaged, and he who acted upon the wrong rule would be unjustly benefited. Therefore the United States stipulated, in the treaties in question, that the rule "free ships, free goods," should be subject to the limitation which I have mentioned, until the progress of civilisation and the consent of all civilised nations should establish it as an undoubted rule of public law. France has also concluded numerous treaties with the States of South America, in which it has generally been stipulated that France should not impose upon neutrals, in time of war, any other obligation than that of submitting to the laws of effective blockade. I am informed that this stipulation is contained in the treaty which France concluded with Brazil in 1826, with Bolivia in 1837, with Equador and Venezuela in 1843, with New Granada in 1846, with Guatemala in 1848, with Costa Rica in the same year, and with Hayti in 1852. Lastly, I should observe that the Ottoman Porte is at present bound by its capitulations of 1604 with France, of 1675 with England, of 1783 with Russia, and probably by those of 1784 with Austria, of 1740 with the Two Sicilies, of 1782 with Spain, of 1680 with Holland, of 1790 with Prussia, not to confiscate any goods, except contraband of war, on board the ships of the nations which I have just mentioned.

I have now enumerated about 130 international engagements between the chief powers of the civilised world; they are all, or nearly all, the international engagements between those Powers during the last two centuries which contain provisions with regard to the treatment of enemies' goods on board neutral ships. There are many which contain no provision on that subject; but of the 130 that do, only eleven (to ten of which England was a party) contain the rule of the hon. and learned Gentleman that the goods of an enemy in the ship of a friend are lawful prize; the remaining 119 contain the rule "free ships, free goods." I have, therefore, shown, that during the century and a quarter which preceded the wars of the French revolution, the all but invariable rule of amicable intercourse as established by treaties between this country and the great maritime Powers of western Europe, and the invariable rule between France and Spain and the United

Provinces and Portugal was "free ships, free goods." I have also shown, that the general rule of amicable intercourse, as established by treaty between the northern Powers, between the northern and western Powers (with the exception of England), between the United States and the Old and the New World, between France and the New World, and between the Ottoman Porte and the great Powers of Europe, was "free ships, free goods." I am therefore entitled to assert that, though it has been the custom and usage of nations to act upon the rule of capturing enemies' goods on board neutral ships, yet that custom and usage have been and still are held by the great majority of civilised nations to be at variance with correct notions of what is right and just.

Sir, I must remark, that it is said that the fact that so many treaties contain the rule "free ships, free goods," and so few the rule of confiscating enemies' goods on board neutral ships, proves that the latter rule was the general rule of public law; because, to set it aside, specific international contracts were required, and such contracts would not have been required if "free ships, free goods," had been the rule of international law. But the friends of the extension of neutral rights do not deny that "to seize the goods of an enemy in the ship of a friend" was the general rule of the public law of England and of many other nations; they merely assert that it ought not to be a rule of the international law of civilised nations, and that it is contrary to the opinions of the majority of civilised nations. In support of this assertion they quote the treaties in question, and affirm that by means of treaties many reforms have been gradually brought about in public law, many a barbarous usage abolished, and many a sound principle established. In fact, the earlier treaties contain numerous stipulations which are omitted from modern treaties, not because the stipulations have become obsolete, but because they have become acknowledged rules of international law among civilised nations; and, therefore, are of universal and eternal obligation, irrespective of treaties. Eminent publicists assert that the positive law of nations, or rather what ought to be the law of nations, may be inferred from treaties, and that an almost perpetual succession of treaties establishing a particular rule, will go very far towards proving what is, or rather what ought to be, the public law

upon a disputed point. For it must be admitted that when a stipulation is to be found in very many treaties, it affords *prima facie*, though not conclusive, evidence, that experience has shown that the stipulation is a good and useful one for very many nations; therefore it is probably a good and useful one for most nations; and certainly that ought to be a rule of public law which is good and useful for most nations, and receives their assent.

Sir, an eminent modern writer on jurisprudence, Mr. Austin, in defining international law, states that—"The rule regarding the conduct of sovereign States, considered as related to each other, is termed law, by its analogy to positive law, being imposed upon nations or sovereigns, not by the positive command of a superior authority, but by opinions generally current among nations. The duties which it imposes are enforced by moral sanctions, by fear on the part of sovereigns of provoking general hostility, and incurring its probable evils in case they should violate maxims generally received and respected." If this be a correct definition of international law, or, rather, of what ought to be international law, it follows that the rule "free ships, free goods," ought to be a rule of international law; or, at least, it follows that the position contained in the resolution of the hon. and learned Gentleman, namely, that a belligerent State ought to have the right of making prize of the goods of an enemy in the ship of a friend, is not indisputably true; and if it be not indisputably true, the House ought not, as I have already said, by agreeing to the Motion of the hon. and learned Gentleman, to pledge the honour of this country to uphold that position for ever.

Sir, I must observe that in the treaties to which I have referred, with the exception of those which contained the principles of the armed neutrality of 1780 and of 1800, the rule "free ships, free goods," was accompanied by the rule "enemies' ships, enemies' goods," in virtue of which the goods of neutrals were liable to confiscation on board enemies' ship. This rule was a convenient one for belligerents. It saved them the trouble of determining the ownership of any property on board enemies' ship. And, therefore, those Powers who agreed to the rule "free ships, free goods," generally stipulated

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that neutrals should pay for the lenity of that rule by the confiscation of their property when found on board enemies' ships. But between the two rules of "free ships, free goods," and "enemies' ships, enemies' goods," there is no logical connection; the only connection between them is the jingling of a verbal antithesis. Now, every writer, ancient and modern, on international law has condemned the rule "enemies' ships, enemies' goods," as contrary to the principles of public law. It was rejected by the *Consolato del Mare*; Grotius expressly condemned it; so did Bynkershoek, Heineccius, and Vattel; so have Hübner, Klüber, de Rayneval, and Hautefeuille. As there is no logical connection between the rule "free ships, free goods," and the rule "enemies' ships, enemies' goods," it follows that we are under no logical nor moral obligation to adopt the latter rule because we have held it to be right, proper, and expedient, at least for the present, to adopt the rule "free ships, free goods."

Sir, I said that, for the sake of argument with the hon. Gentleman the Member for Bridport, who impugned the policy of the Government in adopting for the present the rule "free ships, free goods," I would assume that the principle, that "the goods of an enemy in the ship of a friend are lawful prize," is a sound one; and that then I would prove that in existing circumstances it would be politic and expedient for this country to waive for the present the belligerent right of confiscating the goods of Russian subjects on board neutral ships. To do so, I must assume what I think every one must admit, namely, that it is all important for the successful prosecution of the war now waging with Russia, that France and England should cordially co-operate by sea as well as by land. It is self-evident that cordial co-operation could not be attained if one Power were to act upon one rule of maritime war, and the other upon an opposite rule. For complete harmony of action, it is indispensable that both Powers should adopt the same rules of maritime war. But, as I have already shown, according to the international laws of France and England, their rules of maritime war were different. The French were bound by their law of nations, and by numerous treaties, to respect enemies' goods on board neutral ships; but the French were

entitled by their law of nations to confiscate the goods of neutrals on board enemies' ships. On the other hand, we were bound by our law of nations to respect the goods of neutrals on board enemies' ships, but we were entitled to confiscate enemies' goods on board neutral ships. It is evident, therefore, that with regard to neutrals the French rules of maritime war clashed with our rules of maritime war. It is easy to see that if each Power had insisted upon adhering to its own rules of maritime war, it would have been impossible for the cruisers of the two Powers to act cordially in concert. For instance, suppose that two cruisers—one an English, the other a French—had been sailing together in the Baltic, and that each had received instructions to act according to the national rules of reprisal—the French according to the French rules, the English according to the English rules. Suppose the two cruisers had met a neutral ship, carrying from and to a non-blockaded port a cargo of goods and merchandise of the growth or manufacture of Russia, but not contraband of war; both cruisers would have stopped the ship; their respective officers would have visited it; both would in the first instance have asked the same questions; both would have ascertained the nationality of the ship; both would then have inquired whether there was any contraband of war on board; finding none, the French officer would then have said to the master of the ship, "By the French law of nations, and also in virtue of a treaty between France and your Sovereign, I have nothing more to do on board your ship, and I wish you, *un bon voyage*." Not so the English officer. After his French comrade had taken leave, he would have carefully and minutely searched the ship; he would have found that it was laden with goods and merchandise of the growth and manufacture of Russia; he would then have inquired to whom the property belonged, how it had been acquired, and on what terms; and if he suspected that any portion of it belonged to a Russian subject, if he fancied that the purchase of it from a Russian subject had not been completed according to the strict and technical rules of English law, the English officer would have been bound to detain the neutral ship, would have been bound to take it to an English port, to be adjudicated upon by English judges according to English law; then, perhaps, the cargo

would have been condemned, and the English officer and his crew would have acquired considerable wealth by the confiscation of property which the French officer and his crew had refused to touch. Thus, the French cruiser would have permitted the ships of every neutral state—those of Denmark, of Sweden, of Prussia, of the United States, of Spain, of the South American republics, &c.—to pass free, though full of valuable goods belonging to Russian subjects; whilst the English cruiser, sailing in company with the French one, would have reaped a rich harvest of prize and booty by detaining every one of those ships, except such as belonged to Spain, which we are bound by treaty to respect. On the other hand, I should observe that if a Russian ship had been captured by the French cruiser, the French would have been entitled, by their law of nations, to confiscate all property on board the Russian ship, to whomsoever the property might have belonged, whether to subjects of Russia, of Denmark, of Sweden, of Prussia, of the United States, of Spain, &c.; but had our cruiser captured a Russian ship, we should have been bound, by our law of nations, to restore all property of neutrals on board that ship, not being contraband of war, to their owners, provided they were not Spanish subjects. Therefore, it appears to me self-evident that if France and England had insisted upon adhering to their respective codes of maritime war, the difference in their rules of taking prize and booty would have sown the seeds of dissension, jealousy, and ill-will between the crews of their respective fleets, and rendered cordial co-operation in maritime war impossible. Neutral states would likewise have had good reason to complain, if the cruisers of England and France, sailing in company, had acted upon opposite rules of maritime war; for the consequence would have been to inflict upon neutrals the penalties of both the French and English codes, without granting them the immunities of either. For instance, neutrals have frequently considered that the severity of the English rule of confiscating enemies' goods on board neutral ships, was in some degree mitigated by the lenity of the English rule of respecting neutral goods found on board enemies' ships. On the other hand, neutrals have held that the lenity of the French rule, "free ships, free goods," was paid for, to a certain extent, by the se-

verity of the French rule, "enemies' ships, enemies' goods." Now, if a French and an English cruiser, sailing in company, had acted upon the rules of their respective codes of maritime war, the French cruiser would have confiscated neutral property on board Russian ships, and the English cruiser would have confiscated Russian property on board neutral ships; and between the two the unfortunate neutral would, as I have already said, have suffered the penalties of both codes of maritime war, without enjoying the immunities of either; and neutral states would have had grounds of complaint at least as valid as those which gave birth to the celebrated armed neutrality of 1780.

Sir, it was of paramount importance that the French and English rules of maritime war should, if possible, be assimilated, at least for the present. There were three modes by which this result might have been accomplished. Either France might have yielded to England, and adopted the English rules of maritime war; or England might have yielded to France, and adopted the French rules of maritime war; or both powers might have made, as they did make, mutual concessions. Now neither power could have yielded entirely to the other, and adopted the other's rules of maritime war, without doing wrong; for though both powers were entitled to waive belligerent rights, neither power could with honour have disregarded obligations. For instance, France could have waived her right to confiscate neutral property on board the ships of her enemy; and England could have waived her right to confiscate the property of her enemy on board neutral vessels; but France could not with honour have disregarded the obligation imposed upon her by numerous treaties, as well as by her law of nations, of respecting the property of her enemy on board neutral ships; nor could England have set aside the obligation imposed upon her by her law of nations, of respecting neutral property on board her enemies' ships. Therefore, the only honourable compromise which France and England could have made with regard to their rules of maritime war, must have been based upon a mutual waiver of rights and a strict fulfilment of obligations. This is the compromise which was made. France has waived her right of confiscating neutral property on board Russian ships; England has waived her right of confiscating Russian property on board neutral

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ships. The rules of maritime war of the two nations are now the same. We can cordially act together against the common enemy, and neutral states have no grounds of complaint against us. Russia has imitated our example. May that example be followed by future belligerents in future wars! For if the precedent set by this war should lead to the abolition of private war on the ocean, and to the establishment of the maritime rights of neutrals on the firm and solid basis of reason and justice, whatever other results this war may bring forth, it would be noted for these results in the history of nations—as a step in civilisation, and as a benefit to the human race.

I have shown, on the assumption that a belligerent state ought to have the right of confiscating enemies' property on board a neutral ship, that it was right and proper for this country to waive, for the present, that belligerent right. I have likewise shown that the opinions current among the majority of civilised nations are in favour of the rule "free ships, free goods." Therefore, I infer that reasonable doubt may be entertained of the truth of the proposition contained in the resolution of the hon. and learned gentleman; and, consequently, that the House ought not, by agreeing to the Motion of the hon. and learned Gentleman, to pledge the honour of the country to uphold for ever the principle that the "goods of an enemy in the ship of a friend are lawful prize."

Lastly, Sir, I will assume, for the sake of argument, that the position contained in the Resolution of the learned Gentleman, is indisputably true. Nevertheless, I maintain that the House ought not to assent to the Resolution of the hon. and learned Gentleman, unless he can show that some great positive and practical good would result from the House agreeing to it. For we are not a body of publicists, assembled for the purpose of discussing and determining abstract questions of international law, but a body of practical men, whose duty it is to act or to determine how the Government of the country should act in existing circumstances. Our resolutions should therefore have for their end and aim immediate action; and, consequently, it would be unwise and inexpedient to limit our freedom of action, or that of our successors, by laying down abstract rules of action without some well-proven necessity for so doing. I ask, what great positive and practical good does the

hon. and learned Gentleman expect to obtain from the House agreeing to his Resolution? Does he expect by means of it to compel future Governments, in future wars, to insist upon confiscating enemies' goods on board neutral ships? But if the circumstances of future wars should be the same as those of the present war, future Governments should act as we have acted; for I have shown that we have acted rightly. Therefore, if his Resolution were to prevent them from following our example in similar circumstances, it would be mischievous in the extreme. On the other hand, if in a future war it should be right and proper to insist upon every belligerent right appertaining to us by the law of nations, then the Resolution of the learned Gentleman is not wanted to enable us to do so; because we have not renounced nor surrendered any belligerent right appertaining to us by the law of nations. For in the declaration of the 28th March last, in which Her Majesty was graciously pleased, by the advice of her responsible Ministers, to declare that "to preserve the commerce of neutrals from all unnecessary obstruction, she was willing, for the present, to waive a part of the belligerent rights appertaining to her by the law of nations," Her Majesty did not renounce nor surrender any one of her belligerent rights. For I need hardly assure the hon. and learned Gentleman that to "waive for the present a right," and to surrender it, are two quite distinct things. But the hon. and learned Gentleman is not content with Her Majesty's declaration to neutral States. He asks this House to make a declaration to neutral States, in a tone and spirit very different from that of March last, and, in my opinion, in a tone and spirit which are very objectionable. For what does the hon. and learned Gentleman ask the representatives of the people of this country to declare to neutral States? He asks them to say, in so many words—"The peculiar circumstances of this war have induced us reluctantly to relax the principle that the goods of an enemy in the ship of a friend are lawful prize; the force of events has compelled us, against our will, to waive for the present our belligerent right of confiscating Russian goods on board your ships; yet, be assured, we have no intention to make any permanent concession to your wishes, or in any way to acknowledge the justice of your demands; on the contrary, we maintain that the

"right to search for and seize the goods of our enemies on board your ships, is a right so clearly incorporated with our law of nations, and so interwoven with our maritime renown, that to renounce or surrender it would be inconsistent with the security and honour of our country; therefore we are determined, whenever circumstances will permit, and events are propitious, rigorously to enforce that right, in spite of your remonstrances and in defiance of your protests."

Sir, I doubt whether such language would be either politic or dignified. In dealing with other States, we ought to make up our minds to what is right and just to do, and do it; but we should carefully abstain from threats and boasts of what we will do. To do one thing one day, and to vapour, and to fume, and to fret, and to swear that we will do quite another thing another day, would be conduct unworthy of a mighty nation. Such conduct would best become one of Falstaff's ragged regiment; and with every respect for the hon. and learned Gentleman, I must say, when I listened to the terms of his Resolution, I was irresistibly reminded of the language of ancient Pistol, who, whilst eating the leek under the influence of Fluellen's cudgel, swore "By this leek, I will most horribly revenge; I eat, and eat, and swear." "Free ships, free goods," is the leek of the hon. and learned Gentleman, the eating of which he would swear most horribly to revenge in all future wars by the merciless confiscation of the goods of every enemy in the ship of every friend.

Sir, I am convinced that the House will never consent to become co-jurors with the hon. and learned Gentleman by agreeing to his Motion. For I have shown that his Resolution contains a position condemned by the majority of civilised nations—one of doubtful truth—to the eternal maintenance of which this House ought not to pledge the honour of this country. I have also shown that if the Resolution of the hon. and learned Gentleman were carried, it might be mischievous in the extreme, it could never be of any use, and would be most impolitic and undignified. I therefore assert that the House ought not even to entertain the Motion of the hon. and learned Gentleman; I ask the House not to entertain it: I move that the hon. and learned Gentleman's Motion be not put, and therefore, according to the forms of this House, I move the previous question.

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Previous Question proposed, "That that Question be now put."

Mr. ROBERT PHILLIMORE said, he trusted that the House would listen to him for a few moments while he expressed for the first time his opinion on a subject interesting not only to that House, but to the country at large, and with which his professional studies might be supposed to have made him in some degree acquainted. He could not assent to many of the propositions which the right hon. Gentleman (Sir W. Molesworth) had announced to the House, but he was happy to say that he entirely concurred in the wisdom and expediency of the course pursued by the Government—under the very peculiar circumstances of the present war—in waving the undoubted belligerent rights of the Crown, as well as in all that had fallen from the right hon. Gentleman as to the necessity of acting in harmony with our ally, France, and in making for that object mutual concessions. He was, however, at a loss to reconcile the language of Her Majesty's declaration of March last with a great part of the speech of the right hon. Gentleman. In that declaration Her Majesty was made to say, in very temperate and appropriate terms, that she was willing for the present to wave part of the belligerent rights appertaining to her by the law of nations; but the whole tenor of the right hon. Gentleman's argument was, that those rights were such as the Crown ought never to have exercised; and that, instead of waving belligerent rights, she ought to have apologised for the wrongs which, as belligerent, this country had formerly perpetrated; and when the right hon. Gentleman taunted his (Mr. R. Phillimore's) hon. relative the Member for Leominster, who had brought forward this Motion in a manner worthy of himself, and of the cause which he advocated, with swaggering, and eating ancient Pistol's leek, the right hon. Gentleman ought to have recollected that he had no inconsiderable leek of his own to devour, if he had anything to do with the drawing up of Her Majesty's declaration. Two things could not be conceived more inconsistent than Her Majesty's declaration and the right hon. Gentleman's speech. If, as it was insinuated, his hon. relative had wandered out of the way, he had the consolation of knowing that he had wandered out of the way with such men as Mansfield, Stowell, Grenville, and other distinguished jurists and statesmen,

not of England, but of Europe, not of one hemisphere, but of both. It might be that all the doctrines laid down by Lord Stowell in the last war were wholly unworthy of adoption by the right hon. Gentleman, who to-night had expressed the opinions of the Government; but this was certain, that those doctrines had given the law to Europe and America. So far from American jurists expressing the opinions put into their mouths by the right hon. Gentleman, no one could study their opinions without being aware that they fully and rigorously maintained all the doctrines laid down by Lord Stowell. The Americans, who suffered the most from their application, were the first to acknowledge their wisdom, and the foremost act of the American Republic was directly in opposition to what had been stated that night by the right hon. Gentleman. The principles laid down and expounded in the Admiralty Courts of England had been adopted by all the North American Courts of International Law—they were maintained by Wheaton, by Kent, by Storey. One proposition of the right hon. Gentleman he would directly deny—namely, that they were to look to treaties for the law of nations. Even the right hon. Gentleman himself did not abide by his principle; for when the treaties sanctioned the principle, “enemy’s ships, enemy’s goods,” he rejected their authority, and yet, in almost every treaty which the right hon. Gentleman had cited, this proposition was included, though it was a fact not very prominently put forward by the right hon. Gentleman. The converse of his proposition had been held by every writer from Grotius downwards. That was the very proposition which the King of Prussia endeavoured to enforce on this kingdom in 1747, and was declared by Sir G. Lee and Lord Mansfield to be contrary to both ancient and modern practice, the general rule being strongly proved by the exceptions made in the treaties themselves. The House had, therefore, to decide whether, in respect to the exposition of international law, it would prefer the authority of the right hon. Gentleman or that of the great jurists whom he (Mr. R. Phillimore) had mentioned. The right hon. Gentleman’s argument, if carried to its legitimate conclusion, would prevent this country stopping neutral vessels from entering even blockaded ports. The reluctance with which the present war had been

entered upon, and the vigour and activity displayed in its conduct when once it began, reflected the highest credit on the Government of this country; but the fact was, that, in this new arrangement made with respect to prizes, the Government stood upon no principle, but rather upon a relaxation of a principle—the relaxation of the law of nations. He should not have risen, but that he found it impossible to concur in the doctrines laid down by the right hon. Baronet. It might be owing to his unenlightened mind. [“Hear, hear!”] The right hon. Gentleman cheered. He had not, he confessed, the advantage of being illuminated by those great modern lights which had, no doubt, shed their lustre on the mind of the right hon. Gentleman. He had contented himself with groping in the dark with those masters of antiquity from whose pages he was not ashamed to acknowledge he had borrowed all that he knew upon the subject. It might appear a little strange that the doctrine which the right hon. Gentleman had maintained on behalf of the Liberal principles which he was known to represent was precisely the doctrine which the Autocrat of All the Russias had insisted upon in 1780. Now, he (Mr. R. Phillimore) might at least be allowed to say that the authority of Lord Stowell, Lord Mansfield, and Lord Grenville, was as good as that of the Emperor of Russia upon a question of international jurisprudence and maritime law. In dealing with this question there was a point which the right hon. Baronet had not adverted to—namely, that the armed neutrality in 1780 was at a period of England’s utmost peril and greatest weakness. All her enemies took the opportunity of wresting from her what they conceived to be the mainstay of her maritime renown. He could not imagine that they were influenced by any abstract love of justice, because, as Lord Stowell had well observed, they all remembered to forget their own principles, when their own interests were concerned in its application. Before the year 1800 there was scarcely one of those who constituted the armed neutrality of 1780 who had not abandoned the principle of that anti-English league. And why? Because they found that it was utterly inconsistent with belligerent rights. He had listened to the right hon. Baronet with most unfeigned astonishment when he said that by virtue of treaties Spain and other countries had a right to carry any goods

belonging to the belligerent Powers. [Sir W. MOLESWORTH said, he had only alluded to Spain.] He would take his stand there, then, and would contend that there was not any treaty now existing between Spain and this country which would enable her to carry enemy's goods free from seizure and confiscation. But, after all, the principles of the law of nations were not founded upon treaties, which might be entered into—and, indeed, in matters of this kind generally were entered into—for the purpose of establishing an exception, for some particular reason of State policy, to the general law. They were founded upon reason, upon equity, and upon convenience, and were fortified by authorities. When the right hon. Baronet referred, in a sneering manner, to the law of nations as being founded merely upon municipal regulations of the Roman law relating to the commerce of ancient Rome, he begged to say that the right hon. Gentleman had fallen into a very great mistake, and one which the merest tyro in the Institutes of Justinian and the elements of international law would have been ashamed to make. The Roman law was, in one sense, no doubt, the foundation of international jurisprudence, inasmuch as it contained those maxims of written reason and natural equity which had been sanctioned throughout the whole civilised globe. The law of nations was referred to for the purpose of showing that there were, both by reason, by usage, and by habit, rules observed between civilised nations which it was not competent for any one nation to repeal without the assent of other nations. If the doctrine were to prevail, which he had heard advanced that night, that each and every nation had an international law of its own, which it was competent for each and every such nation to repeal, nothing would be more perilous to the peace and well-being of society. The wildest Republican had never maintained a doctrine more certain of producing universal war than such a doctrine as had been broached that night. He was surprised that the right hon. Gentleman, with his acute mind and varied information, had not perceived the great value which ought to be ascribed to the recognised and acknowledged power of these laws in binding together the various nations of the globe. The right hon. Gentleman, at the end of his speech, referred, in a slighting manner, to the names of Grotius, Puffendorf, and other jurists,

*Mr. R. Phillimore*

concerning whom Sir James Mackintosh—no illiberal, uneducated bigot, he (Mr. R. Phillimore) thought—had said that these well-matured opinions of international jurists of all countries were valuable beyond all price, because they laid down the maxims and usages agreed to by all the nations of Europe, and to which, when one nation was at issue with another, both might with confidence refer. It was not that their authority was incontrovertible, but it was because their impartiality could never be questioned. He remembered that the same high authority had truly said, that no man ever questioned their authority who had not previously made up his mind to violate the rules they had laid down. He had ventured to trespass thus far upon the attention of the House, because it seemed to him of immense importance that it should not go forth to the world that Great Britain had abandoned as untenable the well-established principles of international law—to wave her unquestionable rights as belligerent was a very different course; that course the Government had deliberately adopted, and, in conclusion, he would suggest to his hon. relative the inexpediency of pressing his Motion to a division. He thought his hon. relative might be content with the statement contained in the fourth declaration of Her Majesty, dated 28th of March, 1854, that while it was impossible for Her Majesty to forego the exercise of Her right of seizing articles contraband of war, and of preventing neutrals from bearing the enemy's despatches, and that She must maintain the right of a belligerent to prevent neutrals from breaking any effective blockade which might be established with an adequate force against the enemy's forts, harbours, or coasts, yet Her Majesty would wave the right of seizing enemy's property taken on board a neutral vessel, unless it were contraband of war.

MR. BOWYER said, after the lengthened argument of the right hon. Baronet, he ought, perhaps, not to intrude upon the attention of the House at all; as it was, he would do so very shortly, because such an important subject, he thought, ought to be fully discussed, in order that the practice of nations with regard to maritime war might be adapted to the progress of civilisation and the present position of Europe. The authority of American writers had been referred to in this debate; but, rightly construed, he did not think they supported

the arguments of the hon. and learned Member for Leominster (Mr. J. G. Phillimore.) Mr. Wheaton said that, whatever might be the true principles of international law, it was certain that the usage of nations was to subject the enemy's goods in neutral vessels to capture. The terms of this proposition showed that he was not satisfied this was the true principle of international law, but merely stated the existing usage. In Chancellor Kent's Commentaries there was a remarkable passage bearing on the same point. Kent asserted the principle that the fact of a vessel being neutral did not save the enemy's goods; but he added with *naïveté*, that America had not pushed this doctrine so far as it had been pushed by the English Courts of Admiralty, and that probably when the maritime power of America became greater, she would be willing to assert to a greater extent the doctrine that enemy's goods might be taken in neutral vessels. This showed that in the opinion of Kent this practice did not rest on any principle of natural right, but upon national usage. Now, national usage could not properly be called a law, for it was binding only upon the nations that followed it; and if any nation gave due notice that it did not mean to follow this usage, no blame would attach to it. If they were to follow national usage it would land them in countless absurdities and crimes. There was a time when the usage of war made prisoners of war slaves; there was a time when it justified the putting of prisoners of war to death. They must not in these times follow only customs which had been established, but must see what was just and what the present position of the world and the interests of civilisation dictated. As to this argument, that it had been the custom among nations for an army which had entered an enemy's country, to subsist by means of contributions, he would observe that the principle on which that custom rested was peculiar; it was, that when a country was occupied by the army of an enemy a belligerent sovereignty was acquired over it, and that the army had the same right to be maintained by contributions that the sovereign had to be maintained by taxes. Moreover, although this practice had been followed by Napoleon, it had never been approved by this country. Our own army was always maintained out of our own resources, and that was the rule which ought to be followed by all civilised

nations. Wheaton showed that there was a great preponderance of authority in modern treaties in favour of the maxim, that free ships made free goods. He (Mr. Bowyer) admitted that these treaties were contrary to the usage of nations, but what he contended was, that in proportion as civilisation increased, and the relations of nations became more intimate, would the rights of neutrals be respected. He contended that all modern treaties, from the Treaty of Utrecht to the Treaties of Aix-la-Chapelle and Paris, had proceeded upon the principle of increasing the rights of neutrals. In the last war, indeed, this country had taken a retrograde step, but he rejoiced to say that in the present war Her Majesty's Government had acted upon more enlightened principles—had, in connection with the Emperor of the French, extended the rights of neutrals—and had so begun, he firmly believed, a new era in the law of nations. But they must go still further. By the present state of things, neutral nations were allowed to trade with belligerents, while our own ships were not so allowed to trade. This enabled neutral ships to do what they would not allow the ships of this country to do. It seemed to him that this was acting upon the absurd principle of injuring themselves in order to benefit neutrals.

Notice taken, that forty Members were not present; House counted; and forty Members not being present, the House was adjourned at a quarter before Ten o'clock.

## HOUSE OF COMMONS,

Wednesday, July 5, 1854.

### CHURCH TEMPORALITIES (IRELAND) BILL—ADJOURNED DEBATE—(SECOND NIGHT.)

Order read for resuming Adjourned Debate on Question [13th June].

"That leave be given to bring in a Bill to alter and amend the Laws relating to the Temporalities of the Church in Ireland, and to increase the means of religious instruction and church accommodation for Her Majesty's Irish subjects."

Question again proposed. Debate resumed.

SIR JOHN YOUNG\* said, he deeply regretted that the hon. and learned Gentleman had thought proper to drag this question again into the arena of debate in

that House. It was one which had for nearly ten years occupied the attention of parties in Parliament and throughout the country, and with regard to which differences of opinion had run to great length, the controversy having been carried on with animation, and even acerbity. In the course of these years various Acts of Parliament had been passed, and various concessions made, and compromises entered into, with the full approval of the leading statesmen on both sides; and he had therefore hoped that the settlement thus arrived at would have lasted for one generation at least. However, it seemed that no concessions and no adjustment of mooted points were to be allowed to stand in the way of the constant, fruitless, and mischievous agitation of this question. The hon. and learned Gentleman had commenced his statement in favour of his Motion by quoting the opinions of several high authorities (Lord Grey, Lord Althorp, and others), who had at various periods expressed opinions extremely unfavourable to the existence of the Established Church in Ireland; but it must be observed that the opinions in question were expressed, many of them, at a very distant date, and given under a totally different state of things from that which now existed, and, therefore, they did not apply to the Established Church in Ireland in its present altered position. In fact, the learned Serjeant had dug up, as it were from the grave, opinions upon a state of things which the authors of those opinions had themselves proposed and carried through Parliament measures for remedying. He repeated exaggerated statements of the opulence of the Irish Church—now, when we possessed most accurate statistics on the subject, while those statements referred to guesses, rather than calculations made when no such statistics existed—and he entirely ignored the deductions which had since been made from the church revenues. These authorities, in reference to present circumstances, had no weight whatever in this argument. He (Sir J. Young) now came to the plan proposed by the learned Gentleman, which was this. The learned Gentleman stated the revenues of the Irish Established Church at 622,000*l.* a year, comprising:—The income of the Ecclesiastical Commissioners, derived principally from the revenues of suppressed sees, suspended benefices, tax on bishoprics, &c., 95,000*l.*; income of

*Sir J. Young*

archbishops and bishops, 68,000*l.*; parochial clergy, 438,000*l.*; revenues of dignitaries, 12,000*l.*; prebendaries and canons, 10,000*l.*: making a total of 623,000*l.* The learned Serjeant proposed to take from the Ecclesiastical Commissioners 35,000*l.* a year, now applied to cost of sacramental elements and salaries of clerks and sextons, formerly defrayed from the vestry cess. He also proposed to gain from the incomes of bishops 32,000*l.* He next proposed to suspend 395 benefices in the provinces of Dublin, Cashel, and Tuam, because they contained but a small number of Protestants, and expected to realise from this source 50,000*l.*; and by the reduction of the salaries of clerks in the Commissioners' office, a further sum of 2,000*l.*; making altogether a reduction of 229,000*l.* Out of this, he would relieve the parochial clergy from the charge for maintaining their own curates, which would make a deduction of 60,000*l.*, thus leaving 169,000*l.* to be distributed in certain proportions between Roman Catholics and Presbyterians. Now, if he (Sir J. Young) could show that the learned Member had greatly overstated the property of the Irish Established Church, and likewise that in respect to other resources which he proposed to economise he was well nigh 160,000*l.* wrong in his calculations, he thought he should have pretty well disposed of the hon. Gentleman's plan—and that he need not go much further. Statements were made many years ago in that House, that the income of the Irish Church amounted to millions annually, and that representation was generally credited. But when Lord Althorp brought in his plan, in 1838, he disabused the House and the country of the erroneous and exaggerated impression, said he felt ashamed that error should have prevailed to such an extent, and that the House would be surprised when he told them, after careful inquiry, that the revenues of the Church in Ireland, on an outside estimate, were under 800,000*l.* a year. The amounts he enumerated as follows, namely:—

Bishops' revenues . . . . .	£130,000
Deans and chapters . . . . .	23,606
The value of other benefices, tithes, &c., say . . . . .	600,000
Making together . . . . .	£753,606

From this was subsequently deducted about 70,000*l.* formerly leviable and levied as church cess, but which was abolished, and

a substitute given out of the bishops' revenues, out of the ten sees suppressed. Afterwards, when the payment of tithes was charged on the owner of the land, 25 per cent of their amount was struck off—say one-quarter of the tithe composition, or about 121,696*l.* 5*s.* 4*d.* Without adverting to other charges, taxes, and deductions, which are numerous, the burthen of poor rate has been added since Lord Althorp's calculation was made; on a moderate estimate it is not less than 2*s.* in the *l.*, or 10 per cent on the tithes and glebe lands:—

Taking, then, the amount of church income as stated by Lord Althorp	£753,606
Deducting in lieu of church cess abolished	£70,000
25 per cent of tithe deducted	121,000
Poor rate, &c.	45,000
	<hr/> 236,000
	£517,000

There remains an income of . . . £517,000

instead of 622,000*l.*, as the learned Serjeant assumed, being a difference of no less than 105,000*l.*, a sum which would go far to mar his calculations, and render his scheme valueless, that scheme being to endow the Roman Catholic Church with a large, and the Presbyterian with a small sum, both deducted from the Established Church. But, on this showing alone, the learned Serjeant fell short of the endowments proposed by 105,000*l.* a year—about two-thirds of all he calculated upon. He must remark, the learned Serjeant, like many other persons, appeared to confound the church lands with the Church, but this was a great mistake; the two things were perfectly distinct. The lands were in the hands of the tenants, and the Church had really no more interest in them, except the fines and the rents. This also was a question which some years ago had been fully debated in Parliament, and adjusted; and in consequence laws had been passed, under which many tenants on church lands had bought perpetuities, and all were enabled to buy perpetuities, which entirely barred the claims of the Church. He had thus argued, taking the statement on Lord Althorp's calculations, and on the basis on which in past time it had been argued in the House, and on which, after long debates and great heats, a settlement had, it was supposed, been arrived at. But now to deal with the plan of the learned Serjeant more in detail, and on his own data: he grasps a revenue, disposing of a small part of it for Presby-

terian, a large part for Roman Catholic uses, in the following manner. He proposes to gain—

1st. By a saving on the income of the Ecclesiastical Commissioners; he would lessen the amount of their disbursements by throwing on the congregations the cost of providing the sacramental elements, books, surplices, clerks' and sextons' salaries, and in this way economise 35,000*l.*

2nd. By further reducing the incomes of the bishops he would gain 32,000*l.*

3rd. He would gain 80,000*l.* in the provinces of Dublin, Cashel, and Tuam, where the Protestant population is small; but from this source he only estimates an eventual available surplus of 50,000*l.*, leaving 30,000*l.* for stipends for the ministers of contiguous benefices, consolidated into groups, for curates in certain cases, and for repairs. He would still have left 50,000*l.*

4th. He proposed, after the death of the present incumbents, that no clergyman, except in a large town, should have a larger income than 400*l.*; and no beneficed clergyman in the rural districts a larger income than 300*l.*, free of all taxes and deductions, and in addition to his glebe house, and twenty acres of land. He called attention to these conditions because they would show how egregiously the learned Serjeant was mistaken, and how absurdly he miscalculated when he hoped for a large income from this source, and calculated on so great an amount as 50,000*l.* a year. Lastly, he proposes to reduce the remuneration of the Ecclesiastical Commissioners by 2,000*l.* a year. In this mode the learned Serjeant calculates on reinforcing the disposable resources in the hands of the Ecclesiastical Commissioners—

1st. By saving 35,000*l.*, now expended on sacramental elements, &c.; by deductions of bishops' incomes, 32,000*l.*; abolishing certain benefices, 395 in number, 50,000*l.*; reducing livings to 400*l.* and 300*l.* respectively, 50,000*l.* a year more; and cutting down the Ecclesiastical Commissioners' incomes by 2,000*l.*, making a total saving or gain of 169,000*l.* He would proceed to make some remarks on each of the heads stated, and endeavour to show, he trusted to the satisfaction of the House, how loosely the learned Serjeant's estimates had been made, how small were the grounds for calculating the surpluses he had assumed, and how mani-

festly in some features the plea assumed the aspect of open violation of faith and direct spoliation. In dealing with these items, he would remark, 1st.—When the hon. Serjeant proposed to take part of the funds from the Ecclesiastical Commissioners, and throw upon the Protestant parishioners the burthen of making good the money so deducted, it appeared to him that a fairer proposition would have been to leave the funds in question untouched, and to ask Parliament to sanction the taxing the Protestant portion of the community just so much for Roman Catholic uses. That was in truth and reality the effect of the learned Serjeant's proposal; and it was exactly the same thing, whether you took money directly out of a man's pocket, or took the money devoted to special purposes, and told the man he must make it good out of his own purse as he best could. The learned Serjeant seemed to forget that when church cess was abolished, and the Roman Catholics relieved of the impost, it was thrown on the Church. Now, he proposed to take away the very funds which were originally allocated from the Church's own property, for the relief of Roman Catholic church cess payers, and leave the Protestants to make them good out of their own pockets. This seemed scarcely a fair proposal; it was a spoliation of the property of the Church—a fixing a fresh tax for Roman Catholic uses on the Protestants of Ireland, and a violation of the arrangements and trusts entered into under the Church Temporalities Act, many of whose objects had not yet been completed, or ever commenced. From this source, without breach of faith, the learned Serjeant could derive no supplies.

2ndly. As to a further reduction of the incomes of the bishops, the learned Serjeant overstated that income. The actual income of the sees settled by the 3 & 4 Will. IV. c. 37, is 54,358*l.* The learned Serjeant proposes to leave to the archbishops 4,000*l.* a year each; to the bishops 2,500*l.*; in all 33,000*l.* a year: so that his total gain under this head would be 21,358*l.* a year instead of 32,000*l.*, or 11,000*l.* less than he assumes.

3rdly. He would gain by suspending, or suppressing, the Protestant ordinances in 395 of the smaller livings. Now, throughout his argument, the hon. and learned Member professed that his proposition was not hostile to the Established Church in Ireland, and that his intention was to

maintain that Church in an efficient state; but how did he intend to do this? Why, by depriving these 395 parishes of any means of ecclesiastical instruction. [Mr. Serjeant SHEE: No!] True, the hon. Member said that these were livings in which the Protestant population was very small in extent. Well, but for that very reason they were exactly those livings which, if their revenues were taken from them, would be the least able to subscribe for the support of the clergy, or the obtaining religious instruction for the Protestant inhabitants. Now he (Sir J. Young) must say that if the hon. and learned Gentleman were really a friend to the Established Church, and desirous of making it efficient for its objects, he could not conceive how that Church could receive a more fatal blow than would be sustained by the withdrawal of all means for affording religious instruction from these 395 poor parishes; and the most inveterate enemy of Protestantism in that country could not inflict a heavier injury on the Established Church than by adopting such a sweeping measure of mutilation. But would the learned Member gain the large sum he anticipated from these suppressed livings? If any provision at all was to be made in those parishes for religious instruction, it would be impossible to gain any such sum. But the hon. Member proposed to gain 50,000*l.* a year by reducing all benefices in certain parishes to 400*l.* a year, and in another class of smaller parishes to 300*l.*; but then he made no provision for the stipulation made in the Irish Church Temporalities Act of 1834, that all the small livings under 100*l.* a year should be augmented. Even before the deduction of 25 per cent and the imposition of the poor rate there were 200 such livings. So that by his proposition there would be a manifest breach of agreement; for up to the present moment he believed that none of these livings had been augmented. Besides, on other grounds the hon. Gentleman's calculations were erroneous, because throughout his statement he had taken the gross and not the net income as the basis of his calculations. For instance, he stated the parochial income at 438,000*l.*, whereas it actually amounted to 357,000*l.* Thus he was about 81,000*l.* short of his estimate in this particular alone. This he (Sir J. Young) asserted on the authority of Archdeacon Stopford's book, which he must

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say afforded a conclusive refutation of the hon. and learned Serjeant's statements. In order to show that the Irish Church was not so wealthy a body as it had been represented, he (Sir J. Young) would take the cases of five of the largest livings in Ireland which had fallen vacant since the establishment of the Board of Ecclesiastical Commissioners. The first of these was the union of St. Mary's, in the diocese of Ferns. The gross yearly value of the rents and glebe lands amounted to 1,080*l.* 8*s.* 7½*d.*; but after deducting visitation fees, payments for diocesan schools, masters, county cess, poor rates, and other charges, the net income was 637*l.* The next living was that of Kilmore, diocese of Armagh, of which the gross income was 1,824*l.*, and the net income only 1,051*l.* The next case was the rectory of Armagh, where the gross income was 1,271*l.*, and the net 786*l.* In a fourth case, the gross income was 1,370*l.*, and the net only 850*l.*; and in the fifth case the gross income was 1,279*l.*, and the net income only 720*l.* In these cases the deduction amounted to from 40 to 45 per cent; and if they applied the same scale of deduction, or even a scale of 30 per cent, to all other livings of 500*l.* and 600*l.* a year, what would become of the hon. Member's sum of 50,000*l.*, which was to be obtained by fixing the incomes at a net 400*l.* and 300*l.* a year respectively? He (Sir J. Young) doubted if more than 7,000*l.* a year could be really saved by the hon. Member's proposition; and even this amount could not be obtained without the violation of the pledge given to increase the small livings under 100*l.* a year—a pledge which had never been redeemed. Accurately stated, the learned Serjeant's account would stand thus: From No. 1. The funds of the Ecclesiastical Commissioners, without breach of faith—nothing! 2. Reduction of bishops' incomes, 11,000*l.* 3. From suspending or suppressing Protestant observances in 395 parishes—if the learned Serjeant's own statements and professions as to no wish to injure the Church are not to be wholly contravened—nothing. 4. Reductions of livings to 400*l.* and 300*l.* respectively, probable gain, 7,000*l.* 5. The salary of the Ecclesiastical Commissioners—their clerks not adverted to—there might or might not be a saving there, but let it be assumed at 2,000*l.*, making in all 20,000*l.*; a rather meagre result, but the total and outside

result of all the learned Serjeant's fond imaginings—and this on his own showing. The learned Member calculated that the Ecclesiastical Commissioners received 96,000*l.* a year, but that included the taxation on benefices, and other charges, which amounted to 47,000*l.* a year; which 47,000*l.* he might observe, the learned Serjeant had taken credit for twice over. He had also overstated the incomes of the bishops by 14,000*l.*, and also overstated the incomes of the parochial clergy by 80,000*l.* This would reduce the hon. Members 169,000*l.* of estimated saving by 150,000*l.* It was easy, by dwelling on an income or a dignity here or there, to raise the cry against the Established Church in Ireland; but all that such a proceeding really proved was that it was desirable that powers should be intrusted to the Church for the more equal distribution of its revenues, and for their more efficient management. But taking the scale, the moderate scale of remuneration which the learned Serjeant—an opponent and dissenter from the Church—was willing to leave to its ministers, it would be found that all the possessions of the Church were not more than adequate to afford that remuneration, and when the various charges, taxes, and deductions were correctly estimated, and fair, and only fair, allowance made, it would be found that the net income afforded little scope for hostile declamation or covetous demand. In the eyes of all but those who think a Church should not exist at all, it affords but scanty hire to a body of clergymen sufficiently numerous to supply the exigencies of so wide an area of parishes. He (Sir J. Young) must say, that he thought the hon. and learned Gentleman had chosen a most unpropitious time for bringing forward this Motion, especially considering the present state of public feeling and some of the votes recently come to in that House. He thought that Parliament ought to wait and see the full working and effect of the Acts passed between the years 1830 and 1840. He believed that parties generally in this country had expressed their final opinion upon this question, and he did not think that the learned Gentleman could anticipate any successful result to emanate from a proposition which went to upset and entirely annul the arrangements that had been made under the sanction of the highest authorities and the leading statesmen of the time—which also had been assented to by the Irish

Church upon conditions which had not yet been fulfilled. The measure was, in his opinion, wholly uncalled for, and its tendency, if adopted, would only be to weaken the position of the Established Church, without satisfying the demands of anybody, whilst it must fail to ensure peace for a single hour.

MR. J. O'CONNELL said, he would deny that there could be any finality in partial legislation upon this subject. No man knew what calamities the present war might not bring forth; and his belief was, that the moment a great calamity occurred, a very different tone would be adopted on this subject, and the doctrine of finality would be upset. If he voted at all, he should give a vote directly against the Bill of the hon. and learned Member (Mr. Serjeant Shee), for he had never given a vote in that House to endow in any way whatever his own Church. He was a thorough voluntary in religious matters, and always should be. At the same time, he was willing enough to strike down the monstrous abuse of an Irish Protestant Church. The only measure he wanted on this subject was, that the Irish Church Establishment should cease to exist, and he wanted no modification of it, although he was willing to preserve all existing and inchoate rights and interests.

MR. NAPIER\* said, that the Bill of the learned Serjeant proposed to transfer somewhat more than 100,000*l.* a year from the Established Church in Ireland to the Church of Rome, of which the hon. and learned Gentleman was himself a member; and he had told the House that by such an arrangement they would secure great blessings to the empire, attach the members of the Church of Rome to the Constitution of England and the Protestants of Ireland, and that nothing but peace, order, and good-will would be known for the rest of our lives. Surely, if the loyalty of the Roman Catholics of Ireland were a loyalty of principle—the loyalty of a Christian Church dependent upon Christian principle—it would not be brought into the market and converted into a mere money merchandise. But the real object of the learned Serjeant was the gradual subversion of the Protestant Establishment in Ireland, and not the settlement of a matter of finance. A murder might be committed by the stiletto as well as by the sword, by slow poison as well as by violent means. He (Mr. Napier) regarded the question not as

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a question of numbers, figures, or finance, but as a question of principle and of truth. He held the Church in Ireland to be established on precisely the same basis as the Church in this country—that was, on the ground of truth. It taught the reformed religion which the State held to be the true religion. It was bound by its own principles to give the fullest and amplest toleration to all who dissented from it. It had its own property, its own government, and its own privileges; and we were bound by the Constitution of the country to abide by and maintain it. The clergy of the Irish Church complained, and he thought complained with great force, of the gross and shameful exaggerations that were made with regard to their temporalities. They said that they had a right by law to their reduced incomes; that they had discharged their duties with fidelity and correctness; and they ought not to be subjected to this kind of inquisitorial proceeding. On a former night, when the learned Serjeant introduced his Motion, he (Mr. Napier) told him that his statements had been completely answered in the main parts by the excellent pamphlet of the Archdeacon of Meath. To this the learned Serjeant replied, that the Archdeacon's book only pointed out errors in the whole of his figures to the amount of between 15,000*l.* and 20,000*l.*, of which one-half was in favour of the Church; and, he added, that objections having been made as to large over-statements of income, he would take population rather than income. Well, having shifted his ground from the case of income, which was exposed, to the case of population, what was the source to which the learned Serjeant referred for his data? He (Mr. Napier) mentioned this for the purpose of showing the deliberate unfairness of the course which the learned Serjeant had adopted. The House would agree with him when he said that they ought to take figures which represented the population of Ireland as it now really is, and not as it was said to be in 1834; but it was the return for the year 1834 from which the learned Serjeant had taken his account. Now, he would not discuss the question whether that return was accurate or not, although it had been often much doubted and questioned; and he believed it to be very inaccurate. But twenty years had elapsed since it was made; and had there been no change in the population in the interval? Why, a Roman Catholic

clergyman who went to America recently to collect funds for a new college, stated that within the last twenty-five years the Church of Rome in Ireland had lost upwards of 1,900,000 of its people by means of emigration to America and change of religion there. So much for nearly 2,000,000 of the learned Serjeant's figures. But the entire population of Ireland was less at the present moment than the learned Serjeant stated the number of Roman Catholics to be in the year 1834. He mentioned this to show the unfairness and injustice of now quoting such statistics as these. But when the hon. and learned Gentleman called the condition of Ireland anomalous, what was that condition? In page 74 of the Archdeacon's book, there was an analysis of forty of the most unfavourable parishes, which showed that since 1834 there had been an increase of members of the Established Church amounting in number to 8,048, or nearly fourfold. In 1834, there were, in these parishes, in the proportion of one to sixty-nine and one-third of Protestants to the Roman Catholics; now they were in the proportion of one to fourteen and one-third; and there was a reduction of one-third of the whole population. In the very last return, furnished by the Bishop of Tuam, the increase in some of those parishes since the publication of the Archdeacon of Meath is still more remarkable.

The numbers of the members of the Church were as follows, in four parishes. In—

	1834.	1851.	1853.
Omey . . .	157	2,235	2,394
Killaurin . .	94	375	500
Moyrus . . .	106	256	356
Kilcummin .	138	400	480

These are given as samples of a general progress in this most interesting diocese.

Then, again, the *Nation* newspaper, edited by a Roman Catholic Member of Parliament, admitted that Ireland was ceasing to be "Catholic." These were the words of that journal—

"The Irish nation is fast dissolving, as the Jewish nation dissolved before the curse of God—as the Carthaginian nation dissolved before the sword of Rome—as the Red Indian race silently dissolves before the face of the white man. Ireland is ceasing to be a Roman Catholic nation."

The same organ adds—

"In many parishes at present the priest gazes on his empty chapel, and thinks of the tempting offer of a pension from the Crown—a graver peril

to religion than a thousand Ecclesiastical Titles Bills. With the remnant of the Catholic priesthood of Ireland lost in the purlieus of the Atlantic cities, with the youth of Connaught reared up to hate the faith of their race and nation, with the priest fed upon English bounty, the Roman Catholic Church in Ireland will need a defence association of guardian angels to save it from extinction."

The *Evening Post* also, of the 11th of November, 1851, and even the *Tablet* admit that the same change was in operation in Dublin; and Dr. Wilde, in his *Irish Popular Superstitions*, further states—

"One of our most learned and observant Roman Catholic friends has just written to us, in answer to some queries relative to superstitions—'The tone of society in Ireland is becoming more and more "Protestant" every year; the literature is a Protestant one, and even the priests are becoming more Protestant in their conversation and manners.'"

Dr. Wilde agrees in this, that the tone of society in Ireland was becoming more Protestant every year. He (Mr. Napier) had in his own possession a curious document illustrative of the remarkable change in the province of Connaught; it was furnished, at his request, by the Bishop of Tuam, in 1850, when a debate was expected on the Irish Church, which did not, however, take place. He had asked his Lordship for an account of his diocese in that respect from 1839, and his Lordship had made a return, by which the course of events might be estimated. This return comprised four parishes or unions; and it was accompanied by a letter from his Lordship, stating that the periods taken were 1839, 1846, and 1850. His Lordship stated that he considered it satisfactory and convincing, and that he could vouch for the accuracy of the statements. This was his Lordship's letter—

"Old Connaught, Bray, June 10, 1850.

"My dear Mr. Napier—I regret very much being from home when your letter of the 23rd of May reached the palace. I was absent in the county Mayo looking after some missionary business, and on my return to Tuam, it was too late to have the return you wished for in time to be useful on the debate on the Irish Church. I herewith send you a statement of facts showing the relative condition of the Established Church in four parishes in my united diocese in the years 1839, 1846, and 1850. I consider them to be very satisfactory, and convincing to every unprejudiced mind. I can vouch for the correctness of these statements. I trust they may be of use to you in the coming debate. I entirely concur in the view you have taken as to the ground on which our Church ought to be defended.

"Your very sincere and faithful,

"THOS. TUAM, &c."

These were the facts as contained in those returns—

*"Statement of Facts showing the Relative Condition of the Established Church in some Parishes in the Diocese of Tuam, in the Years 1839, 1846, and 1850."*

"ACHILL.

"Sixteen years ago there were no resident Protestants in this wild parish, with the exception of a few coast-guards, who may be said to have constituted the only feature of civilisation in the island. The reports taken from the personal inspection of the rural deans, for the years entered in the columns following, will show the great change which has taken place since the first attempts were made to introduce true religion and education by means of the Established Church.

"Comparison of the Years

	1839.	1846.	1850.
Number of Protestants . . .	0	600	800
Number of scriptural schools . . .	—	7	—
Children in attendance . . .	0	270	1,800
Clergymen employed . . .	1	3	4
Places consecrated or licensed where divine service is held . . .	0	2	4
Number attending divine worship . . .	11	250	1,000

"BALLINAKILL UNION.

"In the year 1839, there were but two clergymen employed for this vast union, which is forty miles long by twenty-four miles broad. Now there are eleven, chiefly supported by funds altogether independent of the church revenues, the rent-charge of the unions being only 202*l.* per annum. In 1839, there were but two churches; there are now four churches and two in progress, besides several licensed houses for celebrating divine worship.

"Comparison of the Years

	1839.	1850.
Number of Protestants . . .	523	2,834
Number of clergymen employed . . .	2	11
Number of children in scriptural schools . . .	18	1,976
Number of churches built and in progress . . .	2	—

"LOUISBURGH.

(Perpetual Cure near Westport).

"In this district, within the last few years, the members of the Church have increased so rapidly (as may be seen from the following return) that it has been found necessary to raise funds to erect another church within the curacy, where a new congregation has sprung up, and an additional clergyman has been recently ordained and sent down to assist in the discharge of the increased duties which have devolved upon the incumbent."

"Comparison of the Years

	1846.	1850.
Average congregation . . .	30	350
Number of Protestants . . .	85	500
Number of children attending schools (scriptural) . . .	20	200

"KILCOMMON, ERRIS.

"This, the largest parish in Ireland, comprising

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bending nearly the entire barony of Erris without the Mullet, is a wild mountain district. In the year 1839 there was no church within the parish. Divine service was held in a licensed school-house in Belmullet, where a congregation of about fifty persons attended. There were no schools with the exception of the one in the town of Belmullet. There are now two new churches, where service is held; one in Belmullet, and one about nine miles distant; two others are being built by private subscriptions, and a gentleman who has recently offered a donation of 300*l.* for building a church wherever it might be shown to him that it was most needed, has fixed on a wild spot in this parish as the most promising and desirable locality. Thus it is hoped that within the next few years there will be in this hitherto uncivilised and neglected district five consecrated places of worship and four ordained ministers.

"Comparison of the Years

	1839.	1846.	1850.
Number of Protestants . . .	100	261	450
Number of schools visited by the parochial clergy . . .	1	2	3
Number of children in attendance . . .	40	70	2,086
Number of clergymen employed . . .	1	2	3
Number of places of divine worship built or about to be built . . .	—	1	5
Number attending divine worship . . .	—	54	250

In Ballinakill, which was a parish or union forty miles by twenty-four, there were now eleven clergymen, and the rent-charge for their support was only 202*l.* The bishop wished that the income of the deanery of Tuam should be applied to the augmentation of their stipends, they were so exceedingly inadequate; but the Ecclesiastical Commissioners could not afford to allow this to be done. He (Mr. Napier) had returns showing also the condition, under the same aspect, of several other places, but these would suffice for the present. He had asked his Lordship if the conversions which had taken place amongst the adult population had been for the most part genuine; and his Lordship stated, as a proof at the time of their reality, that of one group of 401 persons whom he had previously confirmed, only one had then gone back to the Church of Rome. His Lordship also alluded to the corresponding improvement which had taken place in the social and moral condition of the people—a fact in which he (Mr. Napier) could bear him out, as, to his own knowledge, there had been no crime even laid to the charge of any of the converts in the worst districts, where crime had abounded. In the parish of Belfast, there were more than 30,000 members of the Established Church, in a

population of 120,000; and the income of the vicar was only 300*l.* a year, derivable from rent charge and glebe land. The return of 1834 gave only about 17,000 Episcopalians. In many parts of Ireland there was a great want of income for the clergy; so that, in point of fact, if a surplus anywhere existed, there was plenty of use for it in other places. The learned Serjeant, however, did not show any real surplus; he exaggerated the income of the Church up to his point of appropriation, and then he set about inflaming unjust prejudices with a view to effect its gradual subversion. The hon. and learned Gentleman knew very well that the surplus he had suggested was all moonshine; but he thought, by exciting and inflaming popular prejudice on the subject, that he would instil a slow poison, and so destroy the Church Establishment in Ireland, which his oath as a Member of Parliament commanded him to abstain from injuring. The hon. Member for Meath had stated that he would not be deterred from voting for the extinction of the Established Church, or disregarding what he considered to be the general interests of the empire. The hon. and learned Serjeant was moving in the same line, though he might not express himself so boldly. He (Mr. Napier) would leave it to the House and to the country to judge the motives and design of these hon. Members. The clergy of the Established Church in Ireland had now to complain of, in the matter before the House, the great and unjustifiable exaggeration of their income which had been made by the hon. and learned Gentleman, who represented them as wallowing in wealth, whereas, in point of fact, the very contrary was the truth. The hon. and learned Serjeant had said that the Archdeacon of Meath had actually called to compliment him for his fairness, and also for his respect for his oath. What, however, was the fact? When this statement appeared, the Archdeacon wrote to him (Mr. Napier), and would read his letter to the House—

"41, Ebury Street, Chester Square,  
"June 10, 1854.

"My dear Sir—Having heard that Serjeant Shee, in order to gain credit for his book on the Irish Church, and to weaken the effect of my reply to it, has referred to my having called on him and complimented him upon his book, I beg to say to you, that my having called on Serjeant Shee was merely on account of an intimacy with a mutual friend; and further, that I did not see Serjeant Shee when I called, and that I have never spoken to him. Anything which I have said complimen-

tary to Serjeant Shee is contained in my printed answer to his book.

"I did pay him the compliment of expressing my conviction that Serjeant Shee did not himself write the book to which he gave his name.

"I also expressed my hope that when Serjeant Shee should have seen the proof, from public documents of the gross mis-statements which had been imposed on him in his book, he would not again put forward those statements as true.

"In this I am disappointed. Serjeant Shee has now done the very thing of which I fondly hoped that he was incapable. All that I have said in my book of a nature complimentary to him therefore falls to the ground of itself. He has made it inapplicable, and I with regret must ask to have it considered as withdrawn.

"I remain, dear Sir,

"Very sincerely yours,

"EDWARD A. STOPFORD,

"Archdeacon of Meath.

"Right Hon. Joseph Napier."

So much for the compliment paid to the hon. and learned Serjeant, and so much for the accuracy of his speech and his book. Any one who took the trouble to look into the admirable reply of the Archdeacon would find that the most complete exposure and refutation had been given to the statements of the hon. and learned Serjeant. The hon. and learned Serjeant made out a surplus which in round numbers was more than 200,000*l.*, but how did he produce this? He produced it in a mode which would have made him invaluable to the Chancellor of the Exchequer, by converting deficiency into an available surplus. He took, for instance, the returns of the incomes of the clergy as they stood in 1836-7; whereas, since then, the tithe composition had been commuted into a tithe rent-charge, at a reduction of one-fourth the amount, the incomes of the clergy, so far as derived from tithe rent-charge, being only three-fourths of what they were at that period, and they were further subject to other deductions which cut off in many instances another fourth. The hon. and learned Gentleman, however, when he did deduct a fourth, sometimes made the remaining three-fourths greater than the original sum. Again, he included the rents of the glebe lands, some of which paid quit-rents to the Crown—and many of which, moreover, paid a rack-rent to the landlords of the soil. All this the hon. Gentleman converted into clerical income. Again, benefices in Ireland were heavily taxed under the Church Temporalities Act by the Ecclesiastical Commissioners. That, too, was charged twice over; first as part of the income of the clergy, and also to the Commissioners as part of their annual income, by the hon. Gentleman. Again,

there were perpetual curacies, and their income was also charged twice over. This is but a sample of what may be collected from the answer of the Archdeacon of Meath. Building charges and other matters payable out of their income were stated as additional property of the clergy. Therefore he (Mr. Napier) was justified in saying that to make the hon. Gentleman's case many things were charged twice over. There were a number of these charges pointed out in the Archdeacon's book, which could be referred to at any moment. The publication by the hon. and learned Serjeant, to which this was a reply, was not his first publication, for he was before the public on the same subject in 1845, in 1849, and also in the last year. He said, in the last work, that it was a book of authentic reference for those entering into holy orders, and also for church reformers, and it professed to be founded on public documents. But the Archdeacon of Meath showed that the hon. Member's figures were discreditably inaccurate, and many of his facts were fictions. The hon. and learned Serjeant had since published his speech, and by asterisks referred to the documents. At all events he (Mr. Napier) now impeached the authority of the hon. and learned Serjeant, as regarded both his facts and his figures. But the clergy complained greatly, and with much justice, of the manner in which they had been treated in statements of this kind in Parliament. The Archbishop of Dublin, referring to the debate of July 10, in the House of Commons, in his charge of 1849, said of the speech of the Secretary of the Admiralty, whose authority was now adopted by the learned Serjeant—

"In reference, for example, to the condition of our Church in this country, you will most of you remember to have seen statements made in Parliament and elsewhere, some of them not long since, more widely at variance with facts than any one probably would venture to make, even concerning the circumstances of the most remote corner of the British empire."

He also made on another occasion another very just and appropriate remark—

"There are two circumstances which seem to have had a great effect in misleading many persons in their calculations in this case. One is, their looking only to the number, in a given district, of members of the Church, as compared with the endowments existing within that district, and taking no account of the extent over which the population may be scattered—as if, for instance, the revenue which is sufficient to maintain the minister or ministers who have the care of 1,000 families living within a single town would

be sufficient for the ministers of perhaps ten extensive parishes, with an average of 100 families in each. The other source of error, or of misrepresentation, is, that as there are parishes in which there is hardly any Protestant population, but whose churches and revenues cannot be transferred to places where they are perhaps much wanted, these parishes are continually pointed out as evidences of not merely a local, but an absolute superfluity. There are, for instance, in the diocese of Dublin, about three churches, which are nearly or altogether useless from the above cause; and there are about as many besides, which, though not useless, are much larger than there is need for; and there are, on the other hand, about three times as many parishes in which the church accommodation is so greatly insufficient that there is a distressing want of either an enlargement of the existing churches, or of the erection of chapels of ease, or, in some places, of both the one and the other. Yet these parishes are often wholly overlooked and passed over, as if they did not exist, by some who are continually calling attention to the opposite cases—to those of empty or half empty churches. They seem to proceed in the way that Balak did with Balaam:—'Come now, and I will bring thee to another place, where thou shalt see but the uttermost part of them, and shalt not see them all; and curse me them from thence!'"

That was the course now taken by the hon. and learned Serjeant on this question. The Archbishop had also made a valuable statement as regarded what was urged to be Dr. Arnold's opinions on the subject at issue, as quoted by the Secretary to the Admiralty, Mr. B. Osborne—

"I am far from concurring in many things said by Dr. Arnold," observed the Archbishop, "but it may fairly be required that those who adopt any principle of his should fairly follow it out, and not take half of it and patch it up with a half of something quite different. Now I can safely appeal to his works as proving his principle to be that in each country all persons should be required to belong to the Established Church of that country, on pain of being debarred from all political rights; so that in Ireland he would have had the Roman Catholic religion not only established, but so established as to exclude from the rank of citizens all but Roman Catholics. Those who adopt his views, therefore, must be prepared to go that length; and also to exclude, in England, all who are not members of the English Protestant Church from citizenship. 2. But Dr. Arnold had a very slight knowledge of Ireland, and had an incorrect notion of the facts connected with it. It can be proved from his writings that if he had been aware of there being in Ireland even half the number of Protestants that there are, he would not only not have called it 'a Roman Catholic country,' but would even have advocated the continuance of the Roman Catholic disabilities. For he strenuously defends (see his 'preface to Thucydides') the practice of the Greek States in keeping the numerical majority of the population in a state of helotage; even when (as in Lacedæmon) the helots bore a far greater proportion to the Spartans than the Irish Roman Catholics to the Protestants."

*Mr. Napier*

That was the comment on Dr. Arnold's views by one who knew him well; and it would show how entirely he had been misled by the prevailing mis-statements on the subject. In former times the church property was set down as above 3,000,000*l.* In 1837, however, the exaggeration was reduced to 1,725,000*l.*, while now it was much less than 1,000,000*l.* Such a system of misrepresentation was utterly unworthy of any man of character to trade upon. He (Mr. Napier) could respect those who differed from the Church, and held that the voluntary system was better; but he would point out to them that the Established Church, tolerant to all, did not obstruct the voluntary system, which could not consistently seek to force itself compulsorily on the Church. With regard to the Presbyterians in Ireland, who were offered a share in the spoil, the Established Church had no difficulty; they lived on terms of friendship, they had full toleration, and they raised no cry against the Church. As regarded them, therefore, they would not be disposed to join in this unprincipled crusade, or for filthy lucre so to be obtained, to accept the advocacy or the pillage of the hon. and learned Serjeant. About two years since he (Mr. Napier) had got returns from certain dioceses of Ireland, from which he would read a few passages. One of them was signed by three rural deans and the Archdeacon, and all verified by episcopal authority. In one return it was stated that to promote a poor clergyman to a benefice, for which he might be in every other respect peculiarly eligible, would be in many instances to consign him to helpless insolvency on account of the many charges he had to meet out of his slender income. These liabilities were set down as additional income by the learned Serjeant. Thus the building charges for their glebes, paid for out of their income, are charged on the wrong side of the account, to swell the surplus. Could anything be more disingenuous or discreditable? The returns showed the gross and net incomes of the clergy in the respective dioceses, and illustrated how shamefully the possessions of the Church had been exaggerated, the resources at the disposal of each incumbent for the support of his family and the maintenance of his station scarcely averaging in one diocese 190*l.* In the diocese of Killaloe it was only 120*l.* The returns of some of these dioceses were as follows—

BISHOP OF LIMERICK'S RETURN.

Diocese of Limerick—		
Average for each incumbent	£160	0 0
But if for incumbents and curates	137	0 0

Diocese of Ardferd—		
For each incumbent	171	0 0
For incumbents and curates	118	0 0

BISHOP OF KILLALOE.

Average for each incumbent	120	0 0
(Only twenty-one curates from inability to pay for more).		

BISHOP OF TUAM.

Average	190	0 0
Diocese of Clogher—		

Incumbents and perpetual curates	175	0 0
(This does not include the tax to the Ecclesiastical Commissioners).		

Net income in 1849 in many instances is not more than one-half of what it was in 1835, in consequence of the deductions since allowed, and several cases in which the clergyman is in advance largely to the parish out of his private resources.

In Clogher diocese, which is one of the best and most Protestant—

Net income in 1849	£12,089	10 11½
„ in 1835	24,334	9 11½
Gross income in 1849	22,686	16 3½

On this gross income the clergy are charged full poundage for poor rate.

In Armagh, in several cases, the net income in 1849 was not more than half of the net income in 1835, and yet Armagh may be taken as one of the most favourably circumstanced dioceses in Ireland. But by the deductions and abatements since the returns of 1836 and 1837, the dissolution of unions and other changes, the condition of the clergy was entirely changed, and their income reduced as shown by the returns.

Kilmore diocese—

Gross income	£39,227	16 0
Deductions	17,217	16 0
Benefices	109	
Churches	120	
Protestant population, about	90,000	
Average net income	£201	0 2

Cases were selected from the return, in several of which the net income is considerably less than half the gross. In one of the most important benefices the incumbent was actually 15*l.* out of pocket. It required the aid of two efficient curates. This was the wealthy Church, therefore, against which such accusations had been trumped up in that House by the hon. and learned Serjeant—a Church in which the beneficed clergymen did not get on an average 200*l.* a year. Did the learned Serjeant think that too much? Did he mean to deprive them of any part of it? The learned Serjeant had borne his testimony to the blameless and useful lives of the clergy of the Church of Ireland in his pamphlet of 1845. What had occurred since to deprive them of the benefit of that testimony? The learned Serjeant said that an Established Church in Ireland should be found—



and his son-in-law said that his sentiments on this point remained unaltered up to the hour of his death—

"I hold," says Dr. Chalmers (*Life*, vol. iii. p. 259), "I hold the Established Church of Ireland, in spite of all that has been alleged against it, to be our very best machinery for the moral and political regeneration of that country. Were it to be overthrown, I should hold it a death-blow to the best hopes of Ireland. Only it must be well manned; the machine must be rightly wrought, ere it can answer its purpose; and the more I reflect on the subject the more I feel that the highest and dearest interests of the land are linked with the support of the Established Church, always provided that Church is well patronised. I know not what the amount of the Government patronage is in the Church of Ireland, but in as far as in the exercise of that patronage, they, instead of consulting for the moral and religious good of the people, do, in the low game of party and commonplace ambition, turn the Church livings into the bribes of political subservency—they, in fact, are the deadliest enemies of the Irish people, and the most deeply responsible for Ireland's misery and Ireland's crimes."

Dr. Chalmers was a great friend of Catholic emancipation. He contended that, after it should be granted, the Protestant religion would have then fair play; but he always insisted that the granting of emancipation was to secure, and not to endanger, the existing Establishment. He thus speaks of the Irish Church—

"Even the Irish, which is held the most vulnerable of the three, being capable simply, by a right exercise of the patronage, of being turned into a machine of prodigious power, and, if only well wrought, far more effective than any which can be substituted in its room for the regeneration of that unhappy land. One of the best features of the Bill is, that there should be no national provision for the Catholic clergy. I accept of this as a pledge that they will leave untouched the existing national provision for a Protestant clergy. I should hold it a false and ruinous step to alienate one fraction of the revenue of that Establishment, convertible, in the hands of faithful and pious and philanthropic men, into a mightier instrument for the moral and political good of the country than any other which the united wisdom of statesmen can possibly devise."

Again, what did a great living authority, Sir James Graham, say on the subject. Sir James Graham said, in 1844—

"I must still contend, that, without casuistry, which it would be unworthy of the House of Commons to apply, the proposition of depriving the Protestant Church of its revenues is utterly inconsistent with that Article of the Union—that is my deliberate opinion."

Again, on June 12, 1844, Sir James Graham also said—

"It has been the object of the Government, and will continue to be its object, to remove all the abuses which exist in connection with the Irish Church—to purify it to the utmost; but after

having removed these abuses, and after having thus purified it, it is the intention of the Government to use its best efforts resolutely to maintain it as the Established Church of Ireland. I believe its ministers may now challenge comparison with the ministers of any other Church in Europe. I am bound to say, that to a proposal for transferring its revenues in any shape to any other party, I will never give my consent. For my part, I can only repeat, that the attempt—I will not say to subvert the Church, that might be disavowed—but to take a large portion of its revenues, either for Roman Catholic endowments or for secular uses, is forbidden by justice, forbidden by the compact entered into by the united Parliaments, and forbidden by the sanction of the highest moral obligation."

The hon. and learned Serjeant had referred to the appropriation Resolution of the noble Lord opposite; but that Resolution only pledged the House to appropriate the surplus—if any existed—after full provision for the wants of the Church itself. In that respect it was a safe Resolution, for the learned Serjeant himself had stated that the whole church accommodation of Ireland was only for 369,750 persons; so that, in point of fact, if the Roman Catholics were altogether blotted out of the returns of the population, there would not be sufficient church accommodation for more than a mere fraction of the Protestants. The Roman Catholics said they did not want endowments—they did not want public money; they said it by the mouth of Dr. Murray; but the hon. and learned Serjeant said they wanted our money, but not our life. The hon. and learned Serjeant relied much on civil utility, and supported himself by a quotation from Mr. Macaulay. He (Mr. Napier) would quote Mr. Macaulay also; but he would quote his *History*, the product of calm reflection, rather than his political speeches, on which he might have been led away by the bias of party; but as Mr. Macaulay was an authority with the learned Serjeant, he (Mr. Napier) would give him the benefit of this passage from his *History of England*, vol. i. p. 48—

"Whoever, knowing what Italy and Scotland naturally are, and what, 400 years ago, they actually were, shall now compare the country round Rome with the country round Edinburgh, will be able to form some judgment as to the tendency of Papal domination. The descent of Spain, one of the first among monarchies, to the lowest depths of degradation; the elevation of Holland, in spite of many natural disadvantages, to a position such as no commonwealth so small has ever reached—teach the same lesson. Whoever passes in Germany from a Roman Catholic to a Protestant principality; in Switzerland, from a Roman Catholic to a Protestant canton; in

Ireland, from a Roman Catholic to a Protestant county—finds that he has passed from a lower to a higher grade of civilisation. On the other side of the Atlantic the same law prevails. The Protestants of the United States have left far behind the Roman Catholics of Mexico, Peru, and Brazil. The Roman Catholics of Lower Canada remain inert, while the whole continent around them is in a ferment with Protestant activity and enterprise."

So much for his views as to civil utility. Looking over Dr. Chalmers' lectures, however, on this point, he (Mr. Napier) further found the following passage—

"The lesson may be learned by us nearer home. Literally he who runs may read it in Ireland, and that on a cursory glance, and in the course of a few days' rapid travelling. It is patent as the light of day that the same geography which marks off the distinction between the two faiths also marks off the distinction between, on the other hand, a land of industry and peace, with a population of thriving families, and, on the other hand, a land teeming with all moral and all political disorders—a land of mendicancy and midnight tumults, where violence is abroad in their streets and their highways, and at home in their wretched hovels there are found, and almost invariably, the filth and the squalid destitution of perhaps the worst-conditioned peasantry in Europe. Let us have but the names of the Popish and Protestant countries, and we could learn from the map which is the region of grievous and general distress, of unequalled turbulence, of fierce and incessant agitation, and which the region of prosperous industry, of peaceful and orderly habits, and of decent respectable sufficiency, even down to the lowest labourers of the soil. This truth is open to us through many channels and by various statistics. As the amount of crime and the number of commitments in the province of Ulster, when compared with the rest of Ireland, the proportion of military required in these two great departments to protect from outrage, and maintain the authority of Government—the vagrancy that meets us everywhere in the one territory, and is comparatively rare in the other—these all speak for themselves; and if our statesmen are afraid of the theological question, we ask them to take it up as a question of polity, and tell us, in the name of all that is dear to patriotism, whether it were better to have a nation of Papists or a nation of Protestants in that unhappy land."

He (Mr. Napier) had very recent returns beside him on each and every of the heads to which Dr. Chalmers referred, and they conclusively made out the cases as stated, so as to dispose of this issue beyond question. This matter had been forced on him (Mr. Napier); he had been called on to defend the utility of his own Church, and he hoped he had now disposed of this part of the question, and shown that, if there was to be an Established Church, there was every warranty for the present Church Establishment. He admitted, however, that in past times a heavy charge lay

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against the Church, but a still heavier case existed against the English Government. It sought to uphold Protestant government, but never laboured to extend the Protestant religion. Archbishop King, in 1724, said—

"It is plain to me by the methods that have been taken since the Reformation, and what are yet pursued by both the civil and ecclesiastical powers, that there never was or is any design that all should be Protestants."

The Statute of Elizabeth, to which the learned Serjeant referred, provided that the minister should speak English, and that if his flock did not understand him the service should be in Latin. This was at direct variance with the principles of the Reformation, which provided for an intelligent worship; an appeal to the Word of God, and praying with the understanding. And he admitted that, if the Irish language had been used, and not an unknown tongue, at that time, there was no reason to suppose that the people of Ireland would not have accepted the Reformation. The Irish were an intelligent and affectionate people, and could be made much of, if approached through their own warm feelings. But the learned Serjeant complains that they had not Latin Mass and Vespers; what signified it whether it was Mass or Common Prayer, if it was in a language which the common people could not know or understand? It was not fair to charge upon the Irish Protestants of the present day the neglect and corrupt policy of the English Government in former times. At that day the ruling powers had got the notion into their heads that English habits as well as the English language could be forced upon the Irish people by the pressure of Acts of Parliament. What had been the cause of the great success which had attended the efforts of later times? The cause was, that proper means had been used to effect proper objects. At the time when Catholic emancipation was being contended for one of the arguments of the supporters of the measure was, that penal laws against Roman Catholics hindered the efficiency of the Established Church and the spread of Protestantism. He thought the fair plan was not to compare the state of the two Churches previously to that time, but to take the time when they may be said to have had a fresh start. It was from a recent period that the Church could claim anything like a fair start. The hon. and learned Serjeant, however, had taken up his figures at the opening, whereas he

ought to have taken them up at the end. If the Established Church had of late done its duty, and carried out its purposes, that would be shown by recent results. He had made careful inquiry, and was happy to tell the House that great progress had been made. The hon. and learned Serjeant, however, chose this very time to come forward in order to raise the question about the expediency of leaving only a certain amount of church property for the Protestant Church, and of bestowing the rest on the chapels and clergy of his own Church. He did not think that the present was the period when Parliament or the country would be likely to accept his project. The hon. and learned Serjeant referred to his own parish, and said while church accommodation had been augmented that the attendance had decreased. He found, however, from recent inquiry, that while good accommodation had been provided for 120, the average attendance was 109; on one occasion it had been as high as 147, and the number of communicants had increased from 13 to 38; indeed, he found that within the last fifteen years the number of Protestant communicants had in many cases more than doubled. With reference to the parochial system, he thought that it was a duty to provide instruction in Christian truth, that there should be a permanent provision, and that these matters should not be dependent on the fluctuation of population. The title of the Church was not to be like a track on the sea-shore, which the returning tide effaces, but to be graven on a rock for an abiding testimony. With reference to the basis of the Established Church and its utility, it was impossible to put the matter in a stronger or clearer light than had been done by Dr. Chalmers. In the very places where the worshippers were few and scattered, the duty of maintaining church provision for them was more peculiarly obligatory. The laity had vested rights in this parochial agency, which belonged to themselves and for their children's children. He had now disposed of the case of the hon. and learned Serjeant against the Established Church; all his proposals involving questions of finance had failed; his objections as to utility had failed, and his statements as to principles had failed. When they remembered how the Established Church and its property were guarded by the Act of Union, and by the oath taken by the Roman Catholic Members, they would be able to understand the peculiar character of the hon. and learned

Serjeant's Motion. The oath taken by Roman Catholic Members could not be explained away by any casuistry. The terms of the oath provided that it should be taken without evasion or mental reservation, and according to the plain meaning of the words. The terms of that oath required that they (the Roman Catholic Members) would defend to the utmost the settlement of property, and that they would not use their privilege to weaken or disturb the Protestant religion or government. But did not the hon. and learned Serjeant, in spite of his oath, propose to disturb the settlement of property—above all, the settlement of ecclesiastical property? Roman Catholics got their privileges on certain conditions, which they adopted and ratified by an oath. The hon. and learned Gentleman, when not a Member of that House, published a book irreconcilable with the plain construction of the oath; but he told the hon. and learned Gentleman that the plain language of that oath was alone to be regarded, that the construction put upon it by any private interpretation to explain it away was not the proper construction—the only construction was that put upon it by the country and the Legislature. The hon. and learned Gentleman said he did not mean to subvert the Established Church, for subversion meant turning upside down, and that he did not want to do. Would the hon. and learned Gentleman venture to tell the House that a proposition to take 100,000*l.* of the property of the Protestant Church, in order to hand it over to the Roman Catholic Church, had not a tendency to subvert or weaken the Established Church. Out of his own mouth it would be easy to convict the hon. and learned Gentleman. In a pamphlet he published in 1849 he stated that it was contrary to the 5th Article of the Act of Union merely to convert into money the mensal lands, &c., of the suppressed sees; and yet now he would appropriate some of this very money to Roman Catholic endowment. How much more contrary to the Act of Union thus to transfer the fund, and apply it to alien uses. Is not this disturbing the property of the Church? Is this the way to defend to the utmost the settlement of property, not by conversion only, but by spoliation also? The learned Serjeant quoted Lord Campbell; let him hear Lord Chief Justice Ellenborough. On the 13th of May, 1805, Lord Ellenborough, then Lord Chief Justice of England, had occasion, in his place in the House of Lords,

to comment on the 5th Article of the Act of Union.

"By the fifth article of the Union," said his Lordship, "it is declared that the continuance and preservation of the said United Church, as the Established Church of England and Ireland, shall be deemed and taken to be an essential and fundamental part of the Union. By fundamental is meant, with reference to the subject-matter, such an integral part of the compact and union formed between the two kingdoms as is absolutely necessary to the support and sustaining of the whole fabric and superstructure of union raised and built thereupon; and such, as being removed, would produce the ruin and overthrow of the political union founded upon this article as its immediate basis. The words, 'The Established Church,' import that there shall be only one Church of that description, and which shall alone have the privileges, character, and denomination of an Established Church annexed to it. These terms necessarily exclude any other co-ordinate and concurrent establishment. Every other Church, which has anything beyond what we commonly understand by the word 'toleration' allowed to it, may be considered as so far established within the meaning of this article, and the union, of course, in virtue of such allowed establishment, not only to a degree impugned and violated, but, by the express letter of the precise and peremptory provision referred to, absolutely deprived of its very essence and foundation; in other words, substantially destroyed and subverted."

The maintenance of the Established Church of England and Ireland was thus understood by this great authority to be an essential part of the Union. Now, the hon. and learned Gentleman proposed to take a portion of the property of the Established Church, and give it to the Roman Catholic Church—he proposed to have also the Roman Catholic bishops and priests incorporated. But why incorporate? There was no Statute to that effect for the Established Church. It was an established fact, that the Established Church of Ireland had a clear historical title, an unbroken continuity which he defied the learned Serjeant to disprove. He equally defied him to show either a historical, a scriptural, or utilitarian title for the Church of Rome, which he now sought to partially endow and to incorporate by Statute. The authority of Edmund Burke comes in aid when he tells us that—

"The most able antiquaries are of opinion, and Archbishop Usher, whom I reckon amongst the first of them, has, I think, shown that a religion not very remote from the present Protestant persuasion was that of the Irish before the union of that kingdom to the Crown of England."

Thus is it shown to have been from the first scriptural, and therefore Protestant; and assuredly the Church which is most

scriptural in its creed has the best claim to be called Catholic and Apostolic. And T. Moore (himself a Roman Catholic) says—

"Neither by France, nor by Catholic England, was the interference of Rome more effectually excluded than by Ireland herself during the times of her native monarchy."

Indeed, by asking for a Parliamentary title, the Serjeant admits that the Church of Rome has not a corporate title either historically, or by any law which our Constitution could recognise. But to return to the explicit language of the oath, the first sentence of which is a solemn pledge to defend the settlement of property. Why then did he begin by appropriating a portion of the revenues of the Church? Church rates had been abolished in Ireland. The Church supplied its own wants out of its own property. This being so, the Roman Catholics had no right to complain of the burdens of that Church. He heard the declaration of the hon. Member for Meath with respect to the oath. That hon. Member said, he would not be deterred by his oath from going the whole length of utterly subverting the Protestant Church in Ireland. After professing to take this solemn oath, and calling God to witness that he would keep it, the hon. Gentleman has declared that he would not hesitate to vote for the subverting of the Established Church. This ought to be told to the people of England, that they might see what dependence was to be placed on the oaths of such men. He would never consent to have such views put forward without at the same time expressing his indignant and solemn denunciation. He would say, that in the Established Church—based on Divine truth, and interwoven as it was in the Constitution, guarded by law, and widely and so ciably useful—was to be found the best security for the maintenance of peace and order; and he would go further, and say, that even if in Ireland it was inferior in numbers, it was not inferior in any of the great elements which made a nation. He warned hon. Gentlemen against arousing the Protestant feeling into awakened action. The Protestants of Ireland were willing and desirous of living in harmony with the Roman Catholics—they did not want to provoke angry collision, but, when assailed, they would stand up and acquit themselves like men. And he would tell the hon. and learned Gentleman, if attempts were made to touch one farthing of

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the revenues of the Established Church, or in any way to attack the Protestants of Ireland, supported as they would be by the sympathies of their brethren in the other parts of the empire, that the struggle would be a harder one than he might calculate. The Protestants would co-operate with the Roman Catholics in all social and peaceful improvements—they would promote with them all industrial objects, but their religion they would maintain as a religion of truth; its secrets were in the Bible, and, when assailed in the way they were now assailed, they would meet the foe on high ground, not merely on figures and fictions, but on the solid and substantial ground of principle and sacred truth. On each and all of these, he defied the learned Serjeant and his confederates.

Mr. MAGUIRE would bring forward facts and figures which would disprove some of the assertions of the right hon. and learned Gentleman. The right hon. and learned Gentleman alluded to the representation of Ireland, and said that forty Protestant representatives were returned to that House. He would ask whether that fact told in favour of or against the Roman Catholic religion. He could assert that no constituency in Ireland was averse to a Protestant candidate. Religion made no difference, and Catholic constituencies were as ready to avail themselves of Protestant candidates as of Roman Catholics. The Act of 1833 was not considered final, and never could be considered final. The noble Lord (Lord John Russell) once said the Reform Bill was final; but had not the noble Lord brought in a new Reform Bill? The right hon. and learned Gentleman (Mr. Napier) had attempted to introduce an invidious distinction between Roman Catholic and Protestant districts in Ireland with respect to the prevalence of crime. But the right hon. and learned Gentleman had selected the year 1847, when the Roman Catholic localities were generally afflicted by the visitations of famine and fever, and when Protestant districts were free. It was an established fact that the crimes of 1847 were solely referable to the tremendous destitution of that period. He certainly was surprised to hear that there was an unbroken continuity in the Irish Church from St. Patrick to the present bishops of the Protestant Church. Had the right hon. and learned Gentleman forgotten the Act of Uniformity, which drove the Catholic bishops and pastors from their dioceses

and parishes? Had he forgotten the Catholic prelates who were put to death because they would not acknowledge the Royal Supremacy? Had he forgotten that in the time of Elizabeth the Catholics were persecuted, and that their possessions were torn from them, and handed over to those who conformed to the Established Church? He contended that it was impossible to support a Church whose members were so decidedly a minority of the population. The hon. and learned Gentleman (Mr. Serjeant Shée) had not acted as unfairly as represented. In his statements he had made due deduction for changes and reduction in population. His hon. and learned Friend had also been charged with not making fair allowance for rent of glebes and quit and Crown rents. He (Mr. Maguire) was ready to make the right hon. and learned Gentleman a present of all he could make out of that. He asserted there were 5,000,000 of Roman Catholics in Ireland at this moment. More than that, the hon. Member for Meath (Mr. Lucas) was ready to prove that the number of Protestants was not increasing, but diminishing; and that even if Ireland did cease to be Catholic, it was not likely to become Protestant. No better test of the efficiency of an Established Church could be conceived than the esteem in which it was held; nor could that be better shown than by the attendance at those solemn festivals of the Church which were held in honour by all Christians. Now, he was prepared to show, from the attendance of the Established Churches in Easter, 1853, that so far from there being any want of increased church accommodation for Protestants, the existing places of worship were not filled. In various parishes in Ireland the attendance of Protestants at church on Good Friday and Easter Sunday was exceedingly small; and the result of his investigations proved that while there was church accommodation for 369,000 Protestants in Ireland, not half of it was availed of by them. It was impossible that, with such a state of things as these figures disclosed, the Established Church could be much longer maintained. If the hon. and learned Serjeant persevered in taking a division upon this Motion, he (Mr. Maguire) should certainly not support him, because he was in favour of the voluntary principle. He was in favour of it as to his own Church, and he was therefore quite consistent in demand-

ing its application to the Protestant Church. He thought the hon. Gentlemen who made impassioned speeches in defence of that institution, and beat the boxes on the table when any attack was made upon its temporalities, did not do justice to their own Church. He would say of his own Church, "Strip it bare, as you have done before; plunder it of its ornaments and possessions; and yet that Church would rise in glory above all your persecutions." Were Protestants able to say as much for their Church? He would tell hon. Members that they were ready to throw back to them with indignation and contempt the paltry Maynooth grant, if they would assist them in doing justice to the Roman Catholics of Ireland. But while upon these grounds he could not support the Motion of his hon. and learned Friend the Member for Kilkenny, and while he was sure the Roman Catholics generally did not ask for any portion of the spoils of the Protestant Church, he thought that the hon. and learned Gentleman was entitled to their thanks for the service he had rendered in laying bare the anomalies of the present system, and in exposing an abominable injustice. He trusted he would not go to a division, for many would assist him in endeavouring to expose the wrong who would not consent to accept a single farthing for the endowment of their Church.

Mr. G. A. HAMILTON \* said, that perhaps it would be better that he should leave the case and the statement of the hon. and learned Serjeant to the complete refutation and exposition of it that had been made by his right hon. Friend and Colleague (Mr. Napier). Nevertheless, there were some facts and statements in the speech of that learned Serjeant, upon which he was desirous of making some remarks. He had not had the advantage of hearing the speech of the hon. Member, but he had been favoured with a copy of his published speech. He was glad he had revised and published it, because it afforded him (Mr. Hamilton) the opportunity of commenting upon it more freely than perhaps he might have felt warranted in doing, if he had to deal with a speech reported in the newspapers, and with expressions which, perhaps, might have fallen inadvertently in debate. He had a charge to make against the hon. and learned Member—he did not wish to put it offensively, but he would put it distinctly. His right hon. Friend and Colleague had stated

that the hon. and learned Serjeant had published a book on the revenue of the Irish Church; that book was not noticed in the speech of the hon. and learned Member; and his (Mr. Hamilton's) charge against him was this, that whereas in his speech he stated distinctly and professed to quote from Parliamentary documents as regards the income of the Established Church; instead of quoting from the Parliamentary documents, he had quoted from his own book, and that the figures in his book did not correspond with the figures in the Parliamentary documents. He would undertake to prove this in a variety of cases; and that the hon. and learned Member had been guilty of most extraordinary exaggerations and mis-statements. He would begin with the statements made in his revised speech in reference to the diocese of Ossory, Cashel, and Limerick. The learned Serjeant in his speech (p. 13), states—

"I select three dioceses, with the circumstances of which I am well acquainted by personal observation, and by the study of their ecclesiastical statistics:—1. Ossory, &c.; 2. Cashel, &c.; 3. Limerick, &c.; for the statistics, see Fourth Report of Commissioners of Inquiry, 1837, pp. 186, 234, 280."

As regards the first of these, the diocese of Ossory, &c., the learned Serjeant states in his revised speech, that the members of the Established Church "have their spiritual interests attended to by a bishop and 192 beneficed clergymen, who share among them, and some ninety-two curates, an episcopal and parochial church revenue of 60,000*l.*," and that "they officiate in churches erected at an ascertained cost of 105,000*l.*" Now, if any one will take the trouble of examining the returns to which the learned Serjeant refers, and from which he professes to quote, it will be seen that the episcopal and parochial church revenue, instead of being 60,000*l.*, is just 50,307*l.*, giving an exaggeration in this case of 9,693*l.*; and the cost of churches, instead of being 105,000*l.* defrayed by a public board, was only 99,559*l.*, of which 8,878*l.* was derived from donations and 7,015*l.* from assessment. II. Cashel diocese, &c.—Mr. Serjeant Shee's statement—episcopal and parochial church income, 42,000*l.*; statement in returns from which he professes to quote, 35,173*l.*; exaggeration, 6,827*l.*; cost of churches—Mr. Serjeant Shee's statement, 51,000*l.*; statement in returns, 47,609*l.*; of which, by donations, 4,571*l.*; assessment, 9,540*l.* III. Limerick diocese, &c.—Mr. Serjeant

Mr. Maguire

Shée's statement—Episcopal and parochial church income, 31,500*l.*; statement in returns from which he professes to quote, 26,215*l.*; exaggeration, 5,285*l.*; cost of churches, Serjeant Shée's statement, 53,098*l.*; statement in returns, 45,935*l.*, of which, by donations, 7,078*l.*; assessment, 6,994*l.* Subsequently the learned Serjeant takes up the case of what he calls Protestant Ireland, and he states that—

"The bishops and beneficed clergy of the diocese of Armagh, &c., Derry, &c., and Down, &c., divide among them a church income of 170,000*l.* (see Third Report, Commission of Inquiry, pp. 98, 146, &c.)"

Statement in returns from which he professes to quote, 129,686*l.* Exaggeration in the above three dioceses, 30,314*l.*!—this for the twelve dioceses would give 120,000*l.*, being about the excess out of which he proposes to carry out his plan, so that, as his (Mr. Hamilton's) right hon. Friend and Colleague had stated, the surplus required is made up by exaggerations. In reference to all these he states, p. 21—"It is from the returns of the dignitaries and benefices of the Irish Church I have taken the statistics with which I have troubled the House;" though in point of fact he has quoted from his own book, which he never mentions, and not from the public returns, which he professes to quote from. Parochial revenue—(p. 27), speech, 438,000*l.*; real amount in returns which he professes to quote, 403,248*l.*; exaggeration, 35,000*l.* Summary of exaggerations in cases referred to:—1, Ossory, 9,639*l.*; 2, Cashel, 6,827*l.*; 3, Limerick, 5,285*l.*; 4, Armagh, Derry, and Down, 30,314*l.*; in six dioceses, 52,146*l.* Parochial income—exaggeration, 35,000*l.* General income he makes, speech, p. 27, 622,000*l.*; it really is, not deducting income tax, 510,675*l.*—exaggeration, 111,325*l.* He (Mr. Hamilton) would challenge the hon. and learned Member to explain these exaggerations. They were incapable of explanation, and he would ask the House whether any confidence could be placed in statements so full of exaggerations and mistakes. Having now proved the extraordinary exaggerations of the hon. and learned Member in the instances to which he had referred, he (Mr. Hamilton) would advert to another branch of the subject. The hon. and learned Member had proposed a plan for the adjustment of the Church question. It was impossible to make out from the statement of the hon. and learned Member how he had arrived at his results. He proposed

in his plan to allocate what he conceived to be necessary for the maintenance of the Established Church; but he (Mr. Hamilton) would take Lord Morpeth's scale of 1836, as to the requirements of the Church. The hon. and learned Member could not object to this scale, for he says in his book (p. 216), in reference to this scale—

"This arrangement could hardly give satisfaction to the friends of the Church, or be approved of by a just judge of the requirements of its members."

He presumed, therefore, the learned Member could not object to that scale. It was as follows—

750 parishes, with Church members	
under 500, salary	£200, £143,000
219 ditto, ditto, under 1000, ditto	300, 65,700
185 ditto, ditto, under 3000, ditto	400, 74,000
44 ditto, ditto, over 3000, ditto	500, 22,000

£304,700

1,163 glebes, of 30 acres, at 30 <i>s.</i> per acre	61,335
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£366,035

Serjeant Shée's allowance for bishops (speech, p. 29)	33,000
Ditto, ditto, for Curates (p. 31)	50,000
Ditto, ditto, for suppressed parishes	30,000
Ditto, ditto, for Ecclesiastical Commissioners	55,000

£534,035

Net income of Church as proved by Archdeacon of Meath	510,675
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Deficiency £23,360

making no allowance for deans, archdeacons, &c., nor for increase of Protestants since 1836. It was therefore obvious that, even according to the lowest calculation that had ever been made, the revenues of the Church are not only not superfluous, but are actually inadequate to its requirements. He (Mr. Hamilton) had not intended, and was unwilling now to enter more at large upon the subject which had been so fully treated by his right hon. Friend and Colleague. But, behind all this, and in the speech of the learned Serjeant, there are much larger considerations and principles involved than the accuracy of his statements, or than the income of the Established Church in Ireland, or its prescriptive rights, or its antiquity, or even its utility as an establishment. There is a considerable body of earnest and conscientious men sitting on the opposite benches, who are opposed to all emoluments and church establishments. He (Mr. Hamilton) gave those Gentlemen full credit for the ability they unquestionably possess. He had no prejudice against them; on the

contrary, he could say sincerely, he admired the earnestness with which they act upon their convictions, and he fully believed that in advocating the voluntary system, they consider they are promoting the interests of religion. He had heard, he would say with gratification, the speech of the hon. Member for Manchester (Mr. Bright) on the Church Rates Bill, though he differed with him in his arguments and conclusions. That speech was characterised by his usual vigour of intellect and force of argument. It was characterised by even more than his usual earnestness, and in arguing in support of the voluntary principle, he (Mr. Hamilton) would add that the hon. Member indicated a feeling with regard to the interests of religion, and a toleration with regard to the opinions of others, which was to be appreciated and admired. He (Mr. Hamilton) was willing to admit that the question of State interference and endowments, and the obligations of a State, in these respects, was one of great difficulty, as well as of great importance. He would state at once that he felt most sincerely that the promotion of the interests of religion and religious truth is paramount to every other consideration—that it is the great duty and business of man to arrive at, and promulgate, and make known the truth—truth in everything—and pre-eminently truth in religion, and that not merely because truth is in itself excellent, but because everything that is good and to be valued—happiness, freedom, toleration, industry, contentment, charity, morality, and every social virtue—flows from, and are associated with, the appreciation and maintenance of truth; and if he believed, as the hon. Members to whom he referred do believe, that truth would be better promoted by the voluntary system than by church establishments, however much the State might suffer, however much the Church as an establishment would suffer, by the separation of the Church from the State, he would rank himself among the supporters of the voluntary principle. But, he was bound to say, he entertained a different opinion just as earnestly and as conscientiously as hon. Members opposite held the contrary opinion. He (Mr. Hamilton) believed that collectively, as well as individually, we are bound to seek after and to acknowledge truth. He was firmly convinced that, as a homage to truth and religion, every State was bound to recognise and acknowledge some defi-

nite system of religion. It could not be denied that under the former dispensation this was the case. Not only under that dispensation was there an established Church, and the greatest blessings attached to its faithful maintenance, but the greatest penalties were denounced, not merely upon the favoured nation, but upon all nations in their collective capacity, who did not recognise and acknowledge religious truth. He did not mean to push the argument too far, or to argue that the same obligations rest upon us or upon the State under the present dispensation, but he did think that a strong argument in favour of established Churches was to be found in the fact that under the older dispensations an established Church existed, and States were held responsible for their maintenance of religious truth. He was quite ready to admit that there was a difficulty in the question—how is it to be determined what is religious truth? But is the difficulty confined to religion? If hon. Members will look into the question, they will see that the same difficulty exists in other matters, and that this difficulty is not insurmountable. Religious truth—the most important species of truth—is not the only kind of truth, and the State does take upon itself to pronounce what is truth in other matters, and it acts upon its convictions. Take the instance which is likely to be admitted most readily by hon. Members opposite—take the case of truth or sound policy, which is truth in other words, of commercial intercourse. After long discussion, after great conflicts of opinion, the State has arrived at the conclusion that truth, as regards commercial intercourse, is to be found in the principle of unrestricted competition; and it has acted upon that conviction. There may be some dissentients—they are the dissenters in this particular; but, unlike hon. Gentlemen opposite, they are satisfied to submit to the now established rule. It was on this ground, principally, that he defended the Established Church. He was not insensible to the arguments founded upon its utility. Because he regarded the Church as an instrument for the promotion of truth, he would make it as efficient and useful as possible. But he thought the Church was to be defended on the higher grounds of the obligations of the State to acknowledge what we as a State hold to be religion and truth. But above all things he deprecated a plan like that of the hon. Serjeant, under which the State could

*Mr. G. A. Hamilton*

endow two opposite systems of religion. He could not but feel that there was a principle involved in that subversive of all religion; it involved the supposition that differences in matters of religion were immaterial; it was calculated to create that supposition, and to any such plan, therefore, he should offer his earnest and conscientious opposition.

SIR JOHN FITZGERALD said, he should support the Motion, because he attributed much of the evil under which Ireland had suffered to the existence of a Church maintained for the benefit of the few at the cost of the many.

MR. LUCAS said, he had stated on a former occasion, that his opinion was very much at variance with the greater part of the Bill of his hon. and learned Friend. He did not approve of his plan, or of the principle upon which he undertook to settle this question in Ireland. He did not believe that if the Bill which he proposed should be permitted to be introduced, and should eventually pass into a law, it would settle the Church question, or allay that feeling of grievance which gave rise to these annual discussions. He was not about to put himself on the defensive against such charges as had been made by the right hon. and learned Gentleman (Mr. Napier), in reference to the oath which he and other Members of that House had taken. He had at least as good a right as the right hon. Gentleman had to put an interpretation on an oath which was to bind his own conscience, and he had put an interpretation upon it which he believed to be the only one that it would fairly bear. He was not about to state what that interpretation was, for he would not admit that he was bound to offer any explanation to the House, or to any Member of the House, upon the subject; but he believed the oath left him free to take any course which appeared to himself to be consistent with the best interests of the community. In the case of the Church of Ireland, he considered the interests of the community and his own duty in relation to those interests to be clear, and he should not allow any interpretation that might be put upon the oath to interfere with the discharge of that duty. He believed that nothing could settle this question in Ireland but the entire destruction by law of the Church Establishment; and he thought that the best course for Roman Catholics to adopt would be, to take their stand upon the voluntary principle, and,

renouncing all grants from the State for their own Church, to make a simple demand for justice. He believed that the grant in favour of Maynooth stood in the way of having justice done to Ireland in reference to this question, and that as long as that grant remained there would be no chance whatever of obtaining justice either in that House or out of it. He wished Gentlemen in Ireland who were interested in this question to consider whether, as a matter of expediency, and with a view of obtaining justice towards the Established Church, it would not be wise to make a sacrifice and renunciation of this grant, which had been so long bestowed upon them, and to which, until this question was settled on a principle of justice, they were indubitably entitled. The hon. Member for Manchester was very nearly succeeding in removing this grant from the Consolidated Fund to the Estimates. He believed that he had failed only in consequence of the hour at which the division had taken place; and if he had been successful, with the strong feeling entertained upon the subject on the Opposition side of the House, and with the strong feeling of other hon. Gentlemen, and of the constituencies which they represented, in favour of the voluntary principle, there could be no doubt whatever that the grant would have been removed from the Estimates very soon after it had got there. He had listened without interest to the greater part of this discussion. He thought it a matter of no consequence whatever what was the actual amount of the revenue of the Established Church, or whether a particular bishop or a particular diocese had less or more. He would give up the whole argument, so far as it turned on the amount of revenue. Take it at the smallest possible amount, he wished to have it all removed. He wished no part of it to be given to the Catholics. He had no desire to see the Catholic Church established or endowed; but he wished to remove from the Constitution of Ireland a blot which stood in the way of justice to the Catholics of Ireland, upon every question that came before that House. The most obvious measure of justice towards Catholics was refused because, it was said, they had recognised the principle of an Established Church, and were bound to act in conformity with that principle. He wanted to get rid of the principle from which such consequences were deduced, if it were only backed up to the amount of five shillings a year. He denied,

however, that the charge of exaggeration with respect to income had been made out, that poor and county rates ought to have been deducted, or that the rents of the houses in which the clergy lived were not fair items in the account. He thought that those who had made this charge of exaggeration against his hon. and learned Friend must have deducted the butchers' and bakers' bill of the clergy, and retained nothing as income except the surplus which a man may be able to find at his banker's at the close of the year. He was inclined to admit that the relative proportions of the Catholic and Protestant population of Ireland—of which they had heard so much—had indeed undergone a change since 1834; but he believed the proportion of Catholics to Protestants was larger now than it was then. If the Catholic population had diminished, the Protestant population had diminished still more. The hon. Gentleman proceeded to show, by a reference to the last Census return, that in fifty-one parishes in the counties of Galway, Mayo, Roscommon, and Kilkenny, while the decrease in the general population had been only 30 per cent, the decrease in the Protestant population had been 54 per cent. He added that he was persuaded that the decrease of the population had been not merely caused by the famine, but by the altered circumstances of society in Ireland, and that that decrease had fallen just as much on the Protestant as on the Catholic population. He contended that, in making out that decrease in the Protestant population, he had been establishing the case of the right hon. Gentleman (Sir J. Young), inasmuch as he had made out for the right hon. Gentleman that there was an immense necessity for the Established Church. The right hon. Gentleman the Member for the University of Dublin had an opposite theory, for he said the Protestant population had increased, and, therefore, there was an increased necessity for the Established Church. He should leave the two right hon. Gentlemen to settle between themselves which was the true theory of the Established Church in Ireland. He was glad, in one respect, that a Member of the Government had spoken out on this question, for the speech of that right hon. Gentleman showed that, with regard to the greatest grievance of which the Catholic population of Ireland had to complain, there was no hope of redress.

MR. M'MAHON said, he wished to cor-

*Mr. Lucas*

rect an historical inaccuracy of the right hon. and learned Gentleman the Member for the University of Dublin. He had told the House that that portion of the property of the Irish Church acquired in the twelfth century was chiefly landed property, which had been conveyed away to laymen. He (Mr. M'Mahon) begged to remind the right hon. Gentleman that tithes, which formed the chief support of the Irish Church, were never known in Ireland before the twelfth century. In 1172 Henry II. convened a council of prelates from three provinces of Ireland, and the third decree which that synod made was—

“that all the faithful do pay the tithes of animals, corn, and other produce to the church of which they are parishioners.”

In 1185 an English archbishop presided over a synod held in Dublin, made a similar decree, and the ninth canon enforced the payment of tithes under pain of anathema. It was clear, therefore, that under the ancient church of Ireland tithes were not paid. It was said of Giraldus Cambrensis, by a high authority (Lonegan, page 282)—

“That on an occasion of abusing the whole Irish nation, and representing them as uninformed in the very rudiments of faith, he gives, as one of his arguments, that ‘they do not as yet pay tithes or first offerings.’ This was, according to him and the clergy of his country and times, a violation of an article of faith. I allow that the ancient Irish did not pay those dues, nor were they in general paid in Ireland during his time, except where the English influence predominated, notwithstanding the decrees of the councils of Kells and ‘Ashel. Giraldus did not know that such dues were not paid in the best times of the Church, and that it was not until very long after the days of St. Patrick they were introduced, and, indeed, first into France, where they are now extinct. In Italy, they are scarcely known.”

It appeared, therefore, that if the Established Church in Ireland claimed any connection with the ancient Church of Ireland, they ought to relinquish tithes, which had been a great grievance to that country in Catholic as well as Protestant times, and which had always been deemed a badge of foreign domination.

MR. STAFFORD\* said, he naturally felt great interest in this question, as he possessed Irish property, though he did not represent an Irish constituency; and he thought the learned Member who had brought forward the subject now under their consideration, stood in much need of exercising the right of reply, which, in accordance with the rule of the House, he possessed, for the learned Member's Mo-

tion was the only one which, since he (Mr. Stafford) had had the honour of a seat in that House, had, during an adjourned debate, not found one single Member to address the House in its favour. Irish Members, on both sides of the House, had spoken, and it appeared, that those even of the learned Member's co-religionists who advocated the destruction of church property in Ireland had objected to the present Bill. All the assertions of the learned Member (Serjeant Shree) had been contradicted—all his statistics overthrown—and his plan universally scouted; yet they had been told that this was a Bill which, if passed into a law, would produce peace and tranquillity in Ireland! The hon. Member who spoke last (Mr. McMahon), declared that, during the twelfth century, tithes were difficult of collection in Ireland, though a cardinal in person enforced their payment; but he (Mr. Stafford) could name a more recent period in which the difficulty was as great, if not greater; but as that difficulty had vanished altogether now, he hoped some progress had been made in Ireland since the remoter period alluded to. He (Mr. Stafford) agreed with the hon. Member for Meath, that the real question they had to consider always practically resolved itself into this, namely, the entire destruction of the property of the Church, as at present established; and, though the hon. Gentleman did not say what he would do with that property, he (Mr. Stafford) recognised the plain and open statement he had made just now to the House. The hon. Gentleman acted on the voluntary principle in religion, and he (Mr. Stafford) must say, that the destruction of the Irish Church and the alienation of its revenues would, of course, give a great stimulant to the principle of which the hon. Gentleman was the advocate. The hon. Gentleman referred to a class of religionists, whose boast it was that their communications were perpetual throughout the globe, that their discipline was uniform, and their authority central; and, therefore, he (Mr. Stafford) should have been glad to hear the hon. Member extend his observations to nations more completely under the influence of that central power. He (Mr. Stafford) wished the hon. Member had extended his arguments, for example, to the banks of the Rhine, and to the two great peninsulas of southern Europe, where the voice of the Protestant might never circulate, where the body of the Protestant could scarcely obtain the

rites of sepulture: was anything to be found there which evinced that the Papal Church was ready to aid the cause of religious freedom, or to give assistance to that of rational reform? On the contrary, the past shows how her melancholy system maintained despotism without tranquillity, and suffered convulsion without progress. It was impossible to affirm that, in the great cause of Rome *versus* Christendom, equality was the issue raised—reconciliation with Rome meant submission. She, according to her own claim, could not negotiate, she could only pardon. Now, there is in Ireland another Church, claiming the same Divine origin, equal antiquity, catholic doctrine, apostolic succession—asserting herself to be the Church of St. Patrick and St. Columba in that country. That Church could not be otherwise than a most formidable foe to the adherents of the Papacy throughout the world, and any blow struck against that Church would be welcome to the Vatican. Assuming, therefore, that the destruction of the Irish church property would be one of the greatest boons which they could grant to Rome, was it desirable for the sake of such a system that such a concession should be made? Never, perhaps, had the Church, whose property the learned Member was so anxious to seize upon—never had it exercised so great an influence upon the minds of the Irish people as at the present moment, and no institution had been so strengthened by the events of the last few years. The Irish clergy had been chastened by the tithe persecution—they had been brought into closer sympathy and intercourse with all denominations of their flocks by the terrible famine visitation, and never were they so blameless in their conduct, so forbearing in their politics, so catholic in their charities, as at present. If, therefore, the learned Member succeeds against the Irish Church, he will despoil her, not in her worst, but in her best day. There are no other religionists in Ireland, except some members of the Papal Church, who wish for this spoliation, and it is all very well to use high-sounding words about religious equality and universal toleration, but when the Legislature came practically to legislate on this subject, it had hitherto simply transferred the property of the Church to the pockets of the laity. Take the case of church cess: that impost upon property was abolished—the Anglican Church was so far impoverished; but was the Papal

Church enriched? Were education fund-enlarged? Were even the poor benefited? No, the whole went to the possessors of property. Again, the twenty-five per cent of tithes. Did the Papal Church obtain that portion? did any other religious body? No; again the possessors of property profited by the cry of religious liberty. Lastly, take the case of ministers' money. That burden being, in a great degree, removed from town property, the person who will be most advantaged is no clerical member of the Roman communion, but the present Secretary at War, who was the owner of large house property in Dublin; and, as it has been, so would our further progress in such legislation be. He, therefore (Mr. Stafford), would say, in the words of the poet—

"You will not win, tho' we be forced to yield,  
Nor reap the harvest, tho' you spoil the field."

He voted against the Motion, because he desired earnestly to maintain the principle of our Established Church, and because he did not wish, by the destruction of a Protestant Establishment, to give a fresh victory—an added stimulus to Rome. The Established Church in Ireland was to the poor man, who did not disturb himself with theories, as a grievance impalpable as the atmospheric pressure; and if, leaving the poor, you come to the upper classes, the argument from numerical majority not only fails on the side of the learned Serjeant, but may be powerfully used against him. He (Mr. Stafford), in giving an unqualified opposition to the project of the learned Serjeant, in resisting even the question of disturbing the property of the Church as at present constituted, as one resident among a Roman Catholic population, as earnestly hoping for and believing in better days for Ireland, was fully conscious that he could give that vote without, in the slightest degree, infringing the religious liberty of one of his fellow subjects.

MR. KENNEDY said, as it was so late (twenty minutes to six), he would move the adjournment of the debate, in order that his hon. and learned Friend the Member for Kilkenny might thus be afforded an opportunity of replying.

MR. HADFIELD seconded the Motion.

MR. SERJEANT SHEE said, it had been his intention to let this Motion go to a division that day. The hon. Gentleman (Mr. Stafford), however, had, without saying anything to the purpose, spoken long enough to prevent him exercising his right

*Mr. Stafford*

to reply, and had evidently done so for that very purpose. It was his wish that the debate be again adjourned, in order that he might have an opportunity of replying to the disgraceful misrepresentations which the hon. Gentleman had made in the face of all he (Mr. Serjeant Shee) had said and written on this subject.

Debate further adjourned till Tomorrow.

The House adjourned at seven minutes before Six o'clock.

## HOUSE OF LORDS,

*Thursday, July 6, 1854.*

MINUTES.] PUBLIC BILLS.—1<sup>st</sup> Public Revenue and Consolidated Fund Charges.

2<sup>nd</sup> Oxford University; Indemnity; Insurance on Lives (Abatement of Income Tax) Continuance; Poor Law Board Continuance; Turnpike Acts Continuance (Ireland); Union Charges Continuance; Court of Chancery, County Palatine of Lancaster.

Reported—Vice Admiralty Court (Mauritius).

3<sup>rd</sup> Customs Duties (Sugar and Spirits); Excise Duties (Sugar).

## AFFAIRS OF CANADA—THE CLERGY RESERVES.

THE EARL OF DERBY said, he wished to put to the noble Duke opposite (the Duke of Newcastle) a question of which he had given him notice, relative to a subject which appeared to be of considerable importance. But before putting his question he would freely acknowledge that the information on which it was grounded was derived entirely from private sources. In the first place, however, he must allow that the noble Duke had very properly corrected him with regard to a matter of fact, in a discussion which took place a short time ago, when he (the Earl of Derby) was under the impression that the Legislative Assembly of Canada had proceeded to pass a measure enacting the secularisation of the clergy reserves. The noble Duke, however, had informed their Lordships that the Legislative Assembly had never met since the passing of the Act of Parliament, and, consequently, could not have had an opportunity of dealing with such a subject. But information had now reached him (the Earl of Derby) that on the very earliest occasion on which the Legislative Assembly was called together an amendment was moved to the Address, going to the effect of dealing with the clergy reserves in Canada; and the proposal had the further effect of dealing with the church property

generally in the Colony. Now he had not heard any of the details of the proposal, but he was assured that it was made in opposition to the Governor General and the local Executive, and that the amendment embodying it was carried, in consequence of which it was anticipated there would be an almost immediate dissolution of the local Parliament, and very probably a change in the Administration. What had been the effect of such proceedings he could not undertake to say. But the question he wished to put to the noble Duke was, whether Her Majesty's Government had received any information of the nature to which he had adverted?—because he could not help thinking that if such a proceeding took place, and in the manner adverted to, on the very first occasion on which the Legislature of Canada could adopt a proposal of that kind, it formed some grounds for inducing Her Majesty's Government to reconsider a change which had recently taken place with regard to the Legislature of Canada, by which the whole power was placed in the hands of two elective Chambers.

THE DUKE OF NEWCASTLE said, Her Majesty's Government had received no official information upon the subject to which the noble Earl had referred, the last despatch received by the Colonial Office from the Governor General being dated the 17th of June last, the last day before, if not the very day, upon which the mail left Quebec. That despatch contained a copy of the Governor General's speech to the House of Assembly; but it, of course, contained no such general views as that to which the noble Earl had referred. Having stated that Her Majesty's Government had no official information upon the subject, he ought to add that no written information could possibly have been received. The information in this country alluded to by the noble Earl must have been derived by telegraphic message from Quebec to Halifax, four days subsequent to the departure of the mail, namely, upon the 21st of June. He was, therefore, quite unable to afford any information relative to the matter in addition to that already received from newspaper telegraphic messages, the truth of which he was unable to confirm in any way. He had had no information from the Governor General leading him to suppose that such a course would be taken; but, at the same time, presented as the circumstance was in the shape described by the noble Earl, he

was rather led to believe that the transaction alluded to had occurred. And in fact, it could not be a matter for surprise if it had, for they all knew what could be effected in a popular assembly by a combination of parties. It must not be matter of surprise that in a popular assembly, and against a Liberal Government, a Conservative opposition should take such a course, when they in another place saw Members of a former Conservative Government adopting a particular course with regard to church rates and other measures objected to by Dissenters, merely for the purpose of placing a Liberal Government in a minority. They must not be surprised, therefore, that a similar course was taken by the late Conservative party in Canada, in order to place the Liberal party in the Colony in a minority.

THE EARL OF DERBY: My Lords, I hope the answer just returned by the noble Duke will satisfy your Lordships of the advantage derived from there being another assembly where opinions hastily pronounced by a popular body may, at all events, be revised.

#### OXFORD UNIVERSITY BILL.

Order of the Day for the Second Reading read.

VISCOUNT CANNING, in rising to move the second reading of this Bill, said, he was sure their Lordships would believe that it was not as a mere matter of form, that he asked for their indulgence on the present occasion. The subject to which the Bill related was one of such vast interest, it raised questions of rights and principles upon which men's minds were so much divided, and which had been contested so keenly, and its results, if their Lordships passed it into a law without material alteration, were likely to reach so far into the future, that he would gladly have seen the advocacy of the measure placed in the hands of some one better able to command their Lordships' support, and to do justice to so important a subject. The only claim which he could make upon their kind consideration was the consciousness, that if he were not convinced that it was a wise and just measure—if he did not think that it had been framed with one intention, the advancement of the honour and usefulness of the University of Oxford—and if he did not believe that its provisions were well calculated to attain that end—no consideration would have induced

him to take any part in recommending it to the approval of their Lordships. He need not use many words to remind them of the origin of the measure, and of the circumstances under which it was now brought forward. For many years past there had been a prevailing feeling in men's minds—perhaps a somewhat vague, but still a very confident feeling—that the two Universities of Oxford and Cambridge did not sufficiently perform their duties in advancing and making use of their opportunities in educating and in training the youth of England. This feeling was not confined to any one sect or to any particular class, but had equally pervaded the minds of all educated classes. It had been thought that, with their great wealth, their vast machinery, the privileges which by law or by custom they had long enjoyed—it had been thought that if all these means and appliances were better administered, they ought to have produced a larger result. There was a general impression, that the education which the Universities gave had been somewhat too narrow and confined—that it had not been extended in any reasonable proportion to the means at its command—that very many persons were excluded from the benefits of an University education who were especially intended to enjoy it; that the expenses incurred were unnecessarily large; that, whilst the population of the country had been steadily and rapidly progressing—above all, the educated population—the Universities had been almost stationary in regard to the numbers admitted; that, while the liberal tendencies of all other educational institutions had increased and advanced, the Universities had stood still; and that, whilst schools for all classes had been growing up in all parts of the country, whilst the intelligent middle classes had been year by year sending out more of their number to take a share of the honours and labours of science, literature, and government, the Universities had not sufficiently extended the sphere of their influence. It had been found that even as to those young men whom the Universities did send out to fight the great battle of life, and to grapple and contend in its rivalries and struggles, there were many utterly unfit, so far as the nature and character of their education, and of the knowledge obtained through it, was concerned, to assume the position in the every-day world which they ought to occupy. It had been

*Viscount Canning*

also felt that, apart from the education of youth, the Universities had done little in comparison with the means at their disposal—to aid the diffusion of scientific researches, to justify the reputation they were reported to enjoy, or to establish the distinction which they ought to have maintained for themselves as centres of the diffusion and development of science and nurseries of learning. These feelings pervaded all classes; and if proof of this were wanting, it was to be found in the publications of the day, and in the Report which had been for some time on their Lordships' table, emanating from the Commission appointed to inquire into the condition of the University of Oxford. In the evidence attached to that Report were to be found opinions of the necessity of some alteration in the Universities expressed by men of all views—laity and clergy—High Church and Low Church—by men engaged in the active bustle of life, and by those who had devoted themselves to retirement and study; the opinion seemed to be universal—so general, indeed, that for some time past the only point upon which any difference had arisen was, as to the means by which the necessary reform should be effected. The first step for the solution of this question was taken in 1851. In that year a Royal Commission was issued to inquire into the state, discipline, studies, and revenues of the Universities. That step on the part of the Government caused some difference of opinion at the time, and if he referred to it for the moment, it was not for the purpose of reviving old disputes, but because it was useful sometimes to look back in order, of course, in order to judge of the value and force of present apprehensions by the weight which was attached to those which were entertained under similar circumstances in past times. Various objections were raised at that time—some of them within their Lordships' House. It was urged that the Universities and Colleges being proprietary bodies, such an inquiry as that which the Royal Commission would conduct ought not to take place by those means; that, if it did take place, it ought to be a private inquiry, that the effects of such an inquiry would not be impartial or fair, because, as the information could not be made compulsory on one-sided evidence only would be considered; and it was further urged that the step was an impolitic one, because the Univer-

sities were at that time busily engaged in reforms of their own, and that such a proceeding on the part of the Government was calculated to check those reforms. Now, he thought he might ask confidently, whether those anticipations had been realised? As to the impartiality of the evidence, no doubt some difficulty had been experienced on that head; but many good friends to the Universities had come forward to state the results of their experience, and there was on the whole no dearth of information, though there had been an unwillingness on the part of some of the colleges to give all that was desired by the Commissioners. Instead of checking improvement, he believed the step which had been taken had acted rather as a stimulant to some of the bodies most interested; and although all the good had not arisen which might have been anticipated, still it might be inferred that the activity stimulated by the Commission of Inquiry would not be wanting when the natural sequence of that Commission should take effect in the shape of the present Bill. The result had, indeed, been most important. Of the ability which distinguished the Reports—he spoke especially of that relating to Oxford—of the spirit, zeal, and energy which distinguished the Commissioners—it was impossible to speak too highly; he believed that Parliament and the country at large, even those who differed from the conclusion at which the Commissioners had arrived, admitted it to be one of the most able papers ever laid before either House. Upon the public mind the effect of that Report had been certainly to strengthen the conviction that something was wanting in the condition of Oxford. It had disclosed many facts very little known to the public. In many cases the deficiencies were proved to be owing to impediments, obstacles, and difficulties over which persons apparently responsible had no control; and thereby the Report had shown the necessity of superior interference. But perhaps the most important result was to be seen in the discussions and the proceedings of the Hebdomadal Body in Oxford, consequent on the issuing of the Report. It was impossible to examine what had been done by the graduate members of the University in consequence of the suggestions which had been thrown out, and the matters discussed, without being satisfied that Oxford was not wanting in men who had such a thorough appreciation of the wants and requirements of the times in which they lived, and of

the world without their own walls, as gave an assurance that Oxford herself, when relieved from her disabilities, and placed in the right path, would receive a new impulse and would increase the sphere of her usefulness and influence. He did not know whether, before proceeding to the subject of the provisions of this measure, it was necessary that he should say anything in vindication of the Government from the charge brought against them of having dealt somewhat hastily and impatiently in this matter, and of having been wanting in consideration to the authorities of the University. If he did so, it was not because he admitted the justice of the charge, but because he was speaking in the presence of the Chancellor of the University (the Earl of Derby); and he should greatly regret if the noble Earl, or any of their Lordships, should suppose that the Government had been forgetful either of the dignity and due independence of the University, or of the courtesy which it was their desire as well as their duty to show to the noble Earl, not only as the chosen head of the University, but upon every other account. He was desirous, moreover, to say a word or two on this subject, because it was just possible, after what had been put forth, that such impressions had been created as might influence the feelings of some of their Lordships in that House in regard to the reception of this measure. The facts, however, might be shortly stated. In the summer of 1852 the Reports of the Commissioners were laid before Parliament. In November of that year, on the meeting of the new Parliament, it was announced in the Speech from the Throne that the Reports had been forwarded to the Universities, requesting their recommendations to be taken into consideration. In the winter a change of the Government took place. Shortly after the meeting of Parliament in 1853, the noble Lord the Member for the City of London (Lord J. Russell) announced that it was not intended to take any Parliamentary action on the Reports in that current Session. Nothing was done till the end of the year, when the Government applied to the noble Earl in the capacity of Chancellor of the University of Oxford, to furnish them with information as to the measures which the University might be disposed to adopt in pursuance of the recommendations contained in the Report of the Commission. That information reached the Government, in various shapes, at intervals during the following two months.

As regarded some of the colleges, the information was satisfactory; but so far as the governing body of the University was concerned, the proposals thrown out by them were not such as in the judgment of the Government to justify them from refraining from taking proceedings in Parliament. For the same reasons the Government were not able to accept the suggestions offered to them by the noble Earl, that in legislating on this question they should limit themselves to the passing of an enabling measure only. A Bill was prepared by the Government, and laid on the table of the other House of Parliament in March. A comparison of dates would satisfy their Lordships that there had been no haste to prevent the University from taking its own course in the carrying out of such measures as it might deem necessary. At that time, the Report had been more than a year and a half on the table of Parliament and in the hands of the University; the University having had their attention called to the subject, and being invited to act of themselves, and having shown no sign of any desire on their part to carry out any measure of their own. With respect to the nature of the measure which was thought necessary, he would refer their Lordships back to the occasion on which the noble Lord the Member for the City of London took the opportunity to state that he postponed legislation to the present year. The noble Lord on that occasion pointed out that the heads on which some measure of improvement would be submitted to Parliament would be—first, the reform of the governing body, with the view of establishing an effective system of representation; secondly, an enlargement and extension of the benefits of the University, chiefly with a view to the profit of such students as might not be able to bear the expenses incident upon the course of education at college; thirdly, a consideration and revision of the terms and conditions regulating the eligibility to fellowships and the tenure by which they were held, with the view of making them more effective as a stimulus to learning and a reward of merit; and fourthly, that consideration should be had to the extension within certain limits of new professorships, by apportioning for that purpose such funds of colleges as might be required, always in accordance with the spirit and intention of the donors and founders. These were the main points on which changes were then pointed out as necessary, some

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of the changes being compulsory and some permissive. The spirit in which the Bill had been drawn might shortly be described as a desire to lay down absolutely, and beyond all risk of disturbance, the fundamental principle of self-government;—to prescribe also certain other minor changes carrying in them important principles—but to leave both to the University and the Colleges liberty, and, for a certain time and to a certain extent, the opportunity, of considering and carrying out those principles and effecting those changes in such a manner as might best commend itself to their wisdom and prudence. It had been said that the University of Oxford ought not to be interfered with by Parliament, inasmuch as her dependence was on the Crown, and not on the Parliament, and that therefore the Crown, and not the Parliament, should be the agent in such changes as these. Now in accepting that statement it could not be received without qualification; for Parliament had already acted very positively in the matter. In the reign of Queen Elizabeth it was found necessary to confirm the privileges and rights which the University then possessed, and the Act of the 13th Elizabeth, in its preamble, enunciated the duties of the University, and describe them as intended to promote the better increase of learning and the further suppressing of vice. Now, surely if it was the power of Parliament in the sixteenth century to prescribe the duties of the University of Oxford, it might be affirmed that in the present day Parliament was not disentitled to take into consideration her teaching and discipline. It had been urged that the same effect might have been produced with the same good result, and more agreeably to the University, and more in accordance with precedent, if a Royal Commission had been sent to Oxford, and if certain changes had been specified, and if the governing body had been required to accept those changes on the precept of the Crown. It would, perhaps, be difficult to say what might have been accepted by the University; but he doubted whether such a measure would have been as satisfactory to the public at large as one carried out by the action of Parliament: and it was quite certain that, in the result, it would have been less satisfactory to Oxford, inasmuch as any proceedings by Commission of that sort would have come to be considered as only the act of a

Ministry of the day, and therefore would have carried with them much less of permanence and finality than a law of Parliament, enacted after free discussion in both Houses. Referring now to the provisions of the Bill, those which were first in order related to the constitution of the governing body of the University. Their Lordships were aware that at present the government of Oxford was lodged in the Hebdomadal Board, consisting of the Chancellor, represented by the Vice Chancellor, and of the heads of houses and proctors; all the legislation—all the Statutes of the University—originated with the Hebdomadal Board, and were afterwards submitted to Convocation, and, on the approval of Convocation—which, however, could only approve or reject, and had no power to amend—they became law. It was clear, therefore, that practically the whole character and tendency of academical legislation rested with the Hebdomadal Board. Now, the Hebdomadal Board was not coeval by any means with the University of Oxford itself. It first began to take effect in the time of Chancellor Leicester, and it afterwards acquired more consistency in the reign of Charles I. It was worthy of remark, that the government which was proposed for the University of Oxford in the reign of Charles I. was—I will not say forced, but was certainly imposed upon it, by the act of the Crown and the Chancellor alone, superseding a previous Act of Parliament passed in the reign of Queen Elizabeth. He regretted to say that the powers of the Hebdomadal Board could not be said to have been exercised altogether advantageously to the interests of the University. The Commissioners stated in their Report that the dissatisfaction respecting the Board was very strong; and it was a fact that no fewer than six different schemes had been brought before the Government, suggesting the substitution of something else in lieu of it. But although these schemes had emanated from very high authority—two of them from heads of houses, one from the residents, and one from the Hebdomadal Board itself—none of them had been such as Her Majesty's Government had considered it consistent with their duty to accept. It was hardly to be wondered at that the government of the Hebdomadal Board, constituted as it was, had not been attended with greater advantage to the University. The heads of

houses, as their Lordships were aware, were elected primarily for the government of their own society. They were not supposed to have any special qualification for the government of the University, or for the advancement of its interests. The field from which they were chosen was a narrow one; they were elected by the fellows of the colleges over which they were to preside; in some cases the societies were required, before proceeding to the election, to set aside all other considerations, and to choose the person whose election was most likely to conduce to the interests of their own college; the consequence was, that they came to the discharge of their duty as members of the Hebdomadal Board with a very imperfect knowledge of the wants and interests of the community in whose government they were to take a part. It would have been marvellous indeed if a body so constituted—isolated from the rest of the University, and placed in such a relation towards those whose co-operation in governing the University was essential to them—it would have been marvellous, I say, if such a body, so constituted, and so placed, had been found well fitted to advance the interests of the University;—but it becomes almost impossible when it is considered that their responsibility was very slight, and that the interests to which they had to look as heads of houses were frequently in conflict with those which it was their duty to promote as members of the governing body of the University. These, then, being the faults of the system of government at present, it appeared to Her Majesty's Government that the best mode of remedying them would be to call into action that principle which, whenever the duties and interests of men of English race are to be dealt with, has never yet been found to fail—the principle of self-government by representation. With this view the scheme which they proposed was to substitute for the Hebdomadal Board a body called the Hebdomadal Council, which was to be composed of twenty-two members—the Vice Chancellor and proctors *ex officio*, six heads of houses, seven professors, and six members of Convocation, to be elected by a body the name of which was not unknown to the University, although its functions had fallen into desuetude—a body called the Congregation. The elected members of the Council, it was proposed, should hold their offices for six years; but an arrangement would be made by which

one-half would go out triennially, and each individual was to be eligible to re-election. The functions of this body would so far resemble those of the Hebdomadal Board that all Statutes would originate with the Hebdomadal Council; they would then be carried to Congregation, and Congregation would have the power of accepting or rejecting them; and after they had passed through Congregation they would be submitted, in the last resort, to Convocation. Convocation would consist, as at present, of all masters of arts and doctors who had taken out their regency, and who were members of a college or hall, and would remain undisturbed in all its elements. Congregation would have to discharge two important functions. It would have to elect those members of the Hebdomadal Council who were neither professors nor heads of houses; those who were heads of houses being elected by heads of houses, and those who were professors by professors. It would also have to consider, and either to accept or to reject, those measures which the Hebdomadal Council might bring before it. It was proposed that Congregation should consist of all the chief functionaries of the University—the tutors and professors, and all residents, including the chaplains; and as far as could be calculated, although it was not easy to estimate the numbers precisely, it would be a body of between 250 and 300 members. This was the constitution which it was proposed to give to Oxford—a constitution which was based on representation, and which secured responsibility, inasmuch as the gradual removal and possible re-election of the members of the Hebdomadal Council divested it of the character which now belonged to the Hebdomadal Board, as a body nominated and placed in office for life. There was every reason to believe that it would act harmoniously within its own limits, as well as with the body of the Congregation. The objections which had been made to this constitution he thought he might venture to say had been very few; and the feeling not only out of Oxford, but also within its walls, was, he believed, decidedly in its favour. An objection had, indeed, been made to the disturbance by election of a body which especially required quiet and repose; but, without arguing in favour of elections for their own sake, or denying that disturbance was an evil, he thought it was better that the waters should now and then be ruffled than that they should become stagnant; and that, if

confidence and friendly co-operation could be secured by adopting the representative system, the price was not too high to pay for those advantages. He must not leave this part of the subject without explaining to their Lordships that the form of the new constitution, in that part of it which related to Congregation, was not that which Her Majesty's Government had proposed when they introduced this Bill into the other House of Parliament. It was proposed at first that all the elected members of the Hebdomadal Council should be chosen by the Congregation. Objections, however, were taken in the other House mainly on the ground that Congregation would be liable to be biassed by some of the many impulses or feelings which are apt to affect educated bodies; and in order to check the influence of such impulses in these elections, it had been thought desirable that the professors and the heads of houses who were to be members of the Council should be chosen each by their own body. This certainly was a change not in accordance with the views of Her Majesty's Government, who thought that the advantages to be derived from it would be much more than counterbalanced by the disadvantages of perpetuating, or, at all events, encouraging sectional rivalry; and that it would tend greatly to destroy the true spirit of representation, as originally proposed by them. The House of Commons, however, had decided in favour of the change, and hence the Bill had come up to their Lordships' House in the shape which he had just described. The next head of the Bill was that which provided for the extension of the University beyond the walls of the colleges; and by which it sought to accomplish one of the main objects with which the measure had been brought forward, by enabling poor students to have the benefit of an University education without being obliged to incur the heavy expenses incidental to a residence in college. The importance of obtaining this boon had been repeatedly brought before the members of the University. In the year 1846 it was especially brought before them in an address, numerous signatures—signed, among others, by many Members of their Lordships' House—an address which seemed to be received very favourably by the governing body of the University, but which had been followed by an interval of eight years without anything being done, down to the time when the Government thought it necessary

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to introduce a measure on the subject of University reform to the attention of Parliament; and they had thought it their duty, therefore, to include in that measure the provision to which he now referred. It had been said, and he thought very wisely, that when it is wished to infuse new vigour into an old institution, there was no course so sure, or so safe, as that of recalling it to its first principles, and of reanimating those fundamental ideas which underlie its form. This was what the Government proposed to do with respect to the object to which he was now referring. The spirit of Oxford in early days was essentially liberal; the teaching which she gave was almost free; liberty of access to her was complete; and, although it might be difficult to believe what they were told, of there having been at one time as many as 300 halls within the limits of the University, still there could be no doubt that the effect of her liberality, co-operating with other causes, had been this—that, at a time when the population of the country scarcely exceeded two-fifths of what it was now, the number of students within the halls and colleges of Oxford was five times as numerous as at present. Now, although this was to be accounted for in part by the state of society in those days—by the condition of the Church—by the functions then discharged by the Church—by the dearth of books—and by other matters of minor consideration—yet, when they found that at the present time the matriculations which took place at Oxford every year rarely amounted to 400, and that they had not increased for the last forty years—and when they remembered how greatly the population of the country had increased, and how large a number there must be among that population who, from what they knew of their tastes and habits, they had every reason to believe would gladly avail themselves of the advantages which an academical education conferred—they had every right to suppose that there must at bottom be some discouraging causes in operation; and he thought it not unreasonable to argue that a recurrence to the liberal, expansive, and energetic system of former days, under which so great a development had been given to the University, so far as the number of its members was concerned, might have a wholesome effect. The teaching of the University of Oxford, in the days to which he referred, was by no means limited

to those who resided within or became members of colleges; on the contrary, by far the greater number of the members were resident in the houses of masters and resident graduates of the University, and had no connection with the University beyond simple matriculation and licence to attend the lectures. It was not until the time of Leicester that the limitation of the establishment of these halls and private houses kept by masters began to take effect. Leicester, however, not content with the large power which he placed in the Hebdomadal Board, obtained for himself and for his successors the sole power of nominating to halls. And as, at that time, the interests and sympathies of the Chancellor of the University were more in unison with the interests of the colleges than with those of the students and of the community at large, it was not, perhaps, much to be wondered at that the effect of the power thus obtained was the discouragement of private halls. This was greatly aided by the fact that at the time of the Reformation the number of students fell off, and many of the halls which had no foundation to rest upon disappeared. The consequence was, that the colleges gradually took every means of securing to themselves both the education and the custody of the students resident in the University. This they practised successfully; but many years elapsed before the colleges approached to anything like their full numbers, and before, therefore, there was any place or any liberty under the new system for the establishment of private halls. He had stated that one great reason for recurring to the establishment of such halls was the limitation of expense. He knew that there was great differences of opinion on the subject—that there had been a great difference not only as to where the blame lay in relation to the great expense of education at Oxford, but also in regard to what was the actual amount of that expense. He believed, however, he was not far from the mark when he stated that, under the most favourable circumstances, the cost of the education of an undergraduate at a college or hall, could not be estimated at much less than 600*l*. Now this was a considerable sum. He did not say that in some cases, by great self-denial and under extraordinary circumstances, students did not keep within that sum, but he was sure that it was not an unfair average; and he was equally sure that it was an

average which ought to be greatly diminished. He believed that a better system could not be adopted of ascertaining the real value of an article than that of competition; and in this case no competition would be so complete as placing it in the power of every master of the University, under certain restrictions, and subject to certain qualifications, to use his abilities and his means in the way of establishing in his own house, lodgings for such students as might be willing to resort to him—conducting that establishment on the most economical principles, and giving to the students the further advantage of a shelter from the risks and temptations to extravagance and reckless expenditure which beset all young men on their entering into the larger colleges of the University. He would not, however, be understood as resting on the establishment of these halls any expectation of the realisation of a visionary scheme of redressing the inequalities of fortune. He did not believe it would be possible, or even desirable, to bring within the teaching of the University any large number of the humbler or poorer classes; but he knew that above these classes there were a large number of men belonging to the liberal profession, officers in the Army or Navy, clergymen, and members of the bar, whose incomes were not only small, but often very precarious; who had no capital upon which they could draw, and to whom a saving of 100*l.* a year, or even in the three years of a son's career at the University, would be an object of great importance. To such men the institution of private halls would be a great advantage; and he further thought that to most of them, feeling, as they must, their inability to risk a large expense on account of their sons, and feeling it also their duty to place their sons out of the reach of the temptations to extravagance, it would be a matter of the greatest satisfaction to be able to put them under a closer, more domestic, and more paternal superintendence than they could obtain in any large college. But the reduction of expense was very far from being the only benefit which he thought the establishment of private halls was likely to secure. Competition, as regarded cost, was a very good thing, but he was far from being sure that competition, as regarded tuition, would not be still better. As it was, the number of the tutors of the colleges were, in many cases, very inadequate to the wants of the mem-

bers of the colleges; and, owing to a system which naturally prevailed of pointing to the tutorial functions those who held fellowships, the field of choice, particularly in the case of the close fellowship, was necessarily very limited, and not very favourable to the students. Without wishing to detract at all from the great merits and the great ability of the tutors of Oxford, as a body—admitting that there were among them men of great means and acquirements, and deserving the highest praise in the discharge of the tutorial functions—he must still say that it was a matter of great regret to all those who were acquainted with Oxford that, year after year, many men who had not been fortunate enough to obtain fellowships and who had consequently no resting place in the University, but who were ripe and accomplished scholars, and who were admitted to possess qualifications for undertaking the duties of tuition beyond many of those to whom the trust was usually committed, were virtually driven away from Oxford, from not being able to find there any opportunity for the employment of their abilities and talents—first, not having the means of remaining at the University upon the chance of having their services called for as private tutors, and from the great uncertainty which prevailed as to their finding the means of maintaining themselves in any other way. To a persons as these the institution of private halls would offer an ample field for employment of their talents; and he was greatly inclined, too, to think that the success which would in all probability attend the students at private halls in their career through the University, inasmuch as for tutors they would have the pick of all the graduates who did not obtain fellowships, would very greatly improve the quality of the teaching at the University generally. It would not be fair to omit to state that since this Bill had been before Parliament the Hebdomadal Board had made a move in the direction of extension of the University; not by the establishment of private halls, but by the extension of halls connected with the University, by means of affiliated halls, and by allowing members of the University to reside in private lodgings in town. He could not admit, however, at a moment, that the substitution of these schemes for private halls would answer the purposes for which private halls were intended, and, he believed, calculated

effect; but there was no reason why all should not be tried; and they might be sure that that which on trial most recommended itself to the wants of the University was that which must eventually succeed. If it should turn out that the suggestion made by the Hebdomadal Board was better suited to the wants of the University than the scheme proposed by the Government, the scheme proposed by the Hebdomadal Board might perhaps triumph. The provision, however, with respect to private halls was one of great importance, and it was a provision which the Government could on no account consent to remove or to modify as it now stood in the Bill—partly for the reasons which he had already stated, and partly for this further advantage which it possesses over the scheme recommended by the Hebdomadal Board, that it asserted the independence of the University as distinct from the colleges—a principle which had hitherto, owing to the system of government which had so long prevailed, been kept out of sight. If the Bill had come into their Lordships' House in the shape in which it had been laid upon the table of the House of Commons, he should have had occasion to trouble them at much greater length than it would now be necessary to do. It went into minute details upon many points which were not touched by the present Bill, and contained provisions with respect to many upon which, as they were now excluded from the measure, he did not feel called upon to enter. Whether those changes were for the better or not it was useless to discuss; this much, however, was certain, that if these changes in the Bill had not been made, it would not have been possible to have presented it for their Lordships' consideration until a much later period of the Session. Considering what had taken place in the House of Commons, they could hardly have expected to have introduced it into their Lordships' House, in two months to come. It should be remembered, however, that these alterations had not been made until a petition had been presented to the Government, signed by upwards of 100 residents, including six heads of houses, many of the most distinguished tutors and professors, and other eminent members of the University, praying that the Bill might pass into a law with the least possible delay, and with as few alterations as possible. The measure, in its present form, was decidedly more favourable to the University, for it

left much more liberty to the colleges and to the Commissioners, to whom he would presently refer, to effect such alterations as might be necessary. In some respects, it was now an enabling Bill, where previously it was an imperatively enacting one; but, even in its present shape, it had not been altogether free from cavil and objections. It had been said that, even after all the alterations that had been made in it, it still asserted the principle of spoliation; that it evinced a contempt for the sanctity of endowments, and an ingratitude towards benefactors and founders which Parliament could not and ought not to sanction. Before he proceeded to give a contradiction to those charges, he would state the substance of the provisions by which the Bill enabled the Statutes of the colleges affecting endowments to be altered. First of all, it left original action to the colleges themselves, and they had it in their power to make alterations, more especially with regard to those Statutes which affected the eligibility and tenure of fellowships. These alterations were, however, under this check, that they were subject to the approval of the Commissioners. If the Commissioners approved of them, they became Statutes; if they did not approve, the amendments were remanded to the colleges, and if the colleges did not proceed to alter them in a sense acceptable to the Commissioners, the Commissioners themselves might make the alterations. The Commissioners, on the other hand, were themselves controlled by checks. If, when the Commissioners had made the alterations they desired, two-thirds of the governing body should certify that they considered them prejudicial to the college as a place of learning and education, the alterations would fall to the ground. If no such remonstrance was made, the alterations took the form of regulations and would be submitted to the Queen in Council and published in the *Gazette*, and any person affected by them might claim to be heard in opposition by five members of the Privy Council, empowered for that purpose. If no opposition was offered, if the alterations passed through these ordeals, they would still be subject to further check. They were to be presented to Parliament; and should Parliament be sitting, they were forthwith to be laid on the table of both Houses; and if within forty days either House agreed to an Address against them, they would not take effect. These checks would appear to guard so effectually the

action of the clauses, that if they had not had good evidence that there were some colleges at Oxford most anxious for improvement, and waiting to have their hands untied, he should despair of seeing any great improvement effected by the action of this Bill. Knowing, however, that there were colleges prepared to act upon this power proposed to be conferred the moment opportunity was given them, he believed that they would set such a worthy example that those colleges which had shown themselves indisposed to give any facilities for reform, would find it impossible to hold out. It had been stated that the control which Parliament claimed to exercise over the endowments and the Statutes of the colleges was in substance, however checked, so new to the law and so dangerous to the University that it ought not to be sanctioned. The endowments of the colleges, it was said, were private gifts and independent of the Legislature, and the colleges ought, therefore, to be left to act for themselves in regard to them. It was impossible to admit the truth of this without qualification. It cannot be asserted that the colleges hold these endowments solely from their founders, for in many cases the founders had never thought that their benefactions could pass from Roman Catholics to the societies of the Reformed Church, and it was, therefore, owing to the confirmation of the State that the University found itself in the possession and enjoyment of its ancient privileges and endowments. If the State, then, had the power to recreate these trusts in favour of the colleges, should it not also have the power to see that the trusts were duly administered and carried out; that the spirit in which they were framed was not overlooked and neglected; and should it not, even in cases in which there had been no wilful negligence or overlooking, see that they be adapted to the intentions of their donors, making allowance for the change of time and the growth of circumstances which had supervened? He thought, considering the trusts and duties of the colleges to the State, that the State and Parliament were justified in following out such a course. If it were admitted that the right existed, it could not be said the exercise of it was unnecessary. There were colleges, and some of them the richest, whose duties, measured strictly by the Statutes of the founders, were very far from fulfilled. The college of Magdalen, for instance, was one in

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which, had its Statutes been fully executed, lectureships for the benefit of the University at large should have been established nearly 400 years ago; yet that obligation still remained unperformed. Corpus Christi was very much in the same position, with the exception that, although the obligation was very similar, that college, being one of the foremost to advance the cause of reform, had, of its own good will, proceeded to carry out the first intentions of its founders. But there were other reasons more urgent than even the neglect or indifference on the part of the colleges to their obligations that called for and made it necessary and desirable that the State should exercise a superintendence in these matters. They must remember that most of the colleges in their origin were—and they themselves professed nothing more—little better than literary almshouses: they were founded with this intention by those who gave the funds for their establishment, and the provision for the fellows, as recorded in words, was that of the poorest class: the fellows were not, as now, expected to take any part in tuition: there were no graduates under their control: they were themselves under the control of a head: they never received, as they did now, considerable sums, arising from a division of the surplus funds after the first charges on the trust had been defrayed: every injunction with regard to poverty, as far as was known, was fully carried out. It was impossible, therefore, to compare the state of the colleges at that time and their condition now. But still it was said that the letter of the founder's will must in all cases be applied when provisions were found in it requiring that a preference should be given to those of a certain district, neighbourhood, or family. That preference appeared rather to have crept into the wills gradually, than to have been placed there by the founders for any deliberate purpose. Probably the first intention of the founder was the establishment of a seat of learning for the benefit of poor scholars, and then he thought he might as well benefit the poor of this or that particular district, in which he felt the most interest. Such an hypothesis might be disputed, and in some cases successfully; but he begged their Lordships to remark that, whilst all the other requirements of the founders' wills had been, from necessity or expediency, freely departed from, those requirements

affecting preference and family privileges had been most rigidly adhered to. If they proceeded to apply the principles enunciated in this Bill, he believed he should be right in saying they would do no more than apply to collegiate endowments the doctrine of *cy prés*, in Chancery, and, on the whole, the doctrine of common sense. The argument had been put forward, upon such high authority, in a book recently published, that, though the extract was long, he would venture to read it. It was from the *Remains of Bishop Coplestone*, edited by the Archbishop of Dublin. The Archbishop of Dublin writes—

"I have often heard Bishop Coplestone express his views on this subject (founders' wills and endowments), and once, in particular, I remember a long discussion between him and a person who held extreme principles on that point. He said, 'That endowments and the rules under which they are placed, ought not to be hastily and rashly meddled with, is admitted by all sensible men. But it should be remembered, that a man's disposal of property after his death, is no natural right. It is a right conferred (and within certain limits, very wisely conferred) by law. Now, it is a well known maxim in this country, that "the law abhors perpetuities." When, therefore, an exception to this rule is allowed, as in the case of endowments, it is not too much to require that some reason should be shown for the exception. It may fairly be expected, not only that the funds shall not be expended in a manner positively injurious to the public (for that ought not to be permitted even during the owner's lifetime), but also that their application should be in some degree useful. It would, indeed, be too much to require that the provisions made should always be such as the Legislature for the time being should determine to be the most beneficial possible; for on this, men's opinions will generally differ greatly, and be liable to frequent changes. But it does seem fair to require that an endowment should in some degree answer some good purpose, and not be a mere waste. Moreover, it seems but reasonable that when, from the altered circumstances of the times, or otherwise, a foundation fails altogether of the object designed, a change in the original provisions should be made by the Legislature. If, for instance, it appears that some founder of a college founded also a school, for the express purpose of providing a supply of qualified persons to be scholars and fellows of his college, and appointed that these scholarships should be filled up from that school, then, if it should appear that both the school and the college would be improved, and that better qualified persons would be elected, if there were a perfectly free competition, this might be deemed a sufficient ground for an alteration of the Statutes. Again, in the days when fellowships were founded for natives of certain counties, such a native would usually be one whose ancestors and kindred had long been settled in the county, and, perhaps, possessed property there. But in these days of easy, and cheap, and rapid locomotion, the place where any one (above the lowest classes) happens to have been born, is frequently no indication of

any family connection with that locality. The founders themselves, therefore, if it were possible to consult them, would hardly wish for the continuance of a restriction which answers no good purpose whatever. As for the preference assigned in some cases, to "founder's kin" for ever, it is clearly of the character of a perpetual entail; which is adverse to the spirit of our law.' The chief part of what has here been said, is the substance of what I heard from the Bishop, in the conversation above alluded to, and on other occasions."

Now he begged their Lordships to consider that Bishop Coplestone was the head of a college, one of the most distinguished men at Oxford, provost of Oriel, a successful and accomplished tutor, the champion of Oxford against the attacks of the Edinburgh reviewers, and thoroughly imbued with the spirit of Oxford; and yet this was what he thought of the use and abuse of collegiate endowments. The mention of schools reminded him that there were in the Bill two clauses which referred particularly to endowments, exhibitions, or fellowships, whichever they might be, connected with schools; and those clauses provided with regard to them that no change should take place by any act of the Commissioners until the regulations or alterations proposed had been submitted to the governing bodies of the schools, and received the assent of two-thirds of their number. That was a provision which did not enter into the original scheme of the Bill. It was added in the other House, and he was bound to confess that he thought it was pushing the principle of protection to these endowments a little too far; for although, as regarded scholarships or exhibitions intended to benefit the scholars of a particular school on their admission to the University, restriction might fairly be claimed by the governors of the school, when the same restriction came to be applied to fellowships—the interest of the school having long since ceased in particular fellows—it was a great discouragement of open fellowships, and a great hindrance to securing to those fellowships, not only those who were once clever and intelligent boys, but learned, able, and painstaking men. He had now to refer to the clauses which related to the professors. At one time there was considerable opposition, both in the public mind and in Parliament, to those provisions of the Bill. He was disposed to attribute this mainly to the very able, but rather too earnest, advocacy of the professorial system, which was found in the evidence attached to the Commissioners'

Report, and which had appeared in various shapes before the public; the effect of the somewhat overstrained elevation of the professorial functions having been to frighten people into believing that, by the alteration of the constitution of Oxford, they were going to repose in the hands of the professors a dangerous amount of power—that they wished to supersede the functions of the tutors—to “Germanise” the colleges, and to infuse into their system the mysticism, the scepticism, and rationalism, commonly attributed to the German school of philosophy. At least such was the common understanding, and it was feared the result would be to weaken that most valuable characteristic of English Universities, the tutorial system—a characteristic which distinguished them not only from the Universities abroad, but also from those in Scotland, and, to a certain extent, from that of Dublin. This measure, he firmly believed, would not in any way weaken the tutorial system. There was no necessary antagonism between the tutorial and professorial systems. Each was supplementary, or should be so, to the other. Each facilitated the completion and perfection of the other's work. In some of the colleges, especially those less well supplied with tutors, the students themselves felt greatly the want of some stimulus in their reading beyond the hackneyed routine of lectures—of some one able to put before them those inducements and encouragements in the pursuit of their studies which all who had paid attention to lectures, whether written or oral, of able professors must have felt was specially inherent in that sort of teaching, and which the comparative drudgery—he did not use the term in an offensive sense—of the tutors' lecture-room failed to supply. It was sought by one of the clauses to give some impulse to the establishment and extension of the professorial system in Oxford; but, with the general satisfaction felt with the tutorial system, he was under no apprehension that the effect would be to promote a too rapid growth of the professorial system in the University. In taking that step they were not without encouragement and example; by more than one of the colleges the system had been received with favour, and some had made offers to contribute aid towards the establishment of professors for the University at large; and there was the precedent of Parliament itself, which had dealt with the endowments of Corpus

Christi College, and out of that endowment increased very considerably a very effective body of professors.

He had now touched upon the points which had been mentioned as those to which the attention of Parliament was to be mainly directed. With respect to the machinery by which the Bill was to be carried out, as would be seen by the first clause, it consisted in the appointment of Commissioners, who were to have powers which he admitted were apparently the first glance very large—almost dangerous; he thought, however, it would be difficult to find a piece of legislation in which the abuse of such powers was checked and guarded against in every possible way. If it were said the powers were too great, and that it was a bad precedent to give such powers to any Commissioners whatever, he could only say he believed there were no possible means by which the objects of the Bill—consider how complex, how difficult, and how various were all the interests concerned in—could be better attained, and that other machinery could be devised more effective for the end in view.

It was now fit that that he should now touch upon two clauses which occurred towards the end of the Bill, by which the obligations hitherto imposed upon persons entering the University and proceeding to the first degree of bachelor of arts, to subscribe to the Thirty-nine Articles and to go through other formulas was dispensed with, and the oath except the oath of allegiance was required. The object of the clause was to effect the admission of Dissenters to the benefits and studies of the University, and their obtaining a certificate of success in those studies as far as the first degree was concerned. He need hardly tell the House that the clauses did not form part of the Bill originally proposed by Her Majesty's Government, and that being so, their Lordships might expect to receive some explanation of the reasons which had led to their being incorporated in the measure, and submitted to them with the support and recommendation of the Government. From the time this question first occupied the attention of the Government, it was their desire, whilst they made the Bill as far as the reformation of the University was concerned, as searching and effective as it was in their power to make it, that they should at the same time keep it free from any clogging with any provision which might tend either to its being rejected by,

even delayed in its passage through Parliament. They were especially desirous of this because the effect of a Bill dealing with such a body as the University being presented to Parliament, and failing to pass, or being suspended for another year, would be most disastrous to the University itself. The University had been already sufficiently unhinged and disturbed by the necessary preliminary arrangements; and if it were left in doubt as to the decision of Parliament in another Session, it could not but be very grievously damaged. This had been the view of the Government from the beginning, and so long ago as when the noble Lord the President of the Council was at the head of another Administration, and moved for the issue of a royal Commission, that intention was traced out; and Her Majesty's Government, fully approving of the determination, had adhered to it, and had abstained from themselves introducing any provisions affecting the admission of Dissenters to the University. They were less unwilling to do so, because they felt convinced that the cause itself would receive no detriment from that abstinence; and there was good reason to hope that although success might be delayed, still that delay would be of no long duration. They felt assured that in the present temper of the University of Oxford, with its disposition to enlarge the sphere of its duties, to extend its teaching, and to act in the same spirit of liberality and generosity towards others which marked the first institution of Oxford, and which its best friends desired to see reintroduced, they felt confident this question would receive a favourable attention from the University—and he was bound to admit that they would prefer seeing the decision taken by the University itself rather than by Parliament. Moreover, it seemed but reasonable that that course should be taken; because hitherto the University of Oxford had had no fair opportunity of expressing its opinion on this or other questions of a like nature, and the constitution given to it by the present measure would enable it to do so. The Government adhered stedfastly and sincerely to that determination; but a majority in the other House of Parliament—a large majority, composed partly of persons who had been foremost in asserting the rights and privileges of Oxford, decided otherwise, and these clauses extending the rights and privileges of the University had been inserted in the Bill. He did not propose

to go at length into the question of the admission of Dissenters; but he would state simply thus much, that it appeared to him that most of the arguments against their admission—he meant, of course, their admission so far as this Bill proposed to secure it—namely, up to taking the degree of bachelor of arts—were directed to two points; either that it could not be effected without danger to the teaching and influence of the Church of England (which was a question rather of practice than of right), or that, considering the status of the University as regarded the Church, no claim for the admission of others than the members of the Church, whether it came from Parliament or any other quarter, could be raised consistently with reason and justice. But those who used this argument did not sufficiently bear in mind the extent and character of the duties which the University owed directly to the State. If the first of those duties was the education of men to serve the Church of the State, it was not too much to say that the second of those duties was to educate men to serve the State itself. The University, up to a certain moment in the student's career, drew no distinction between its teaching for intended ecclesiastics and for laymen; and as long as the State was content to be served by those alone who were also servants of the Church of England, and as long as the Test and Religious Disabilities Acts, and other laws of a like nature, remained, so long it could not be said any duty remained unfulfilled on the part of the University. But a great change had come over the policy of the State on those matters, and now not only had a share in the great duties of political life, legislation in Parliament being the first of them, been conceded to Roman Catholics, but, by the repeal of the Test Acts, all impediments had been removed to the accession to office of those who are dissenters from the Church of England, under other denominations. In these circumstances, was it not a fair and legitimate demand on the part of the State to the University that it should take means to extend its teaching to those whom the State no longer considered to be disqualified on religious grounds from serving it; provided always that such extension be given in a manner which in no way should be prejudicial to, or in the smallest degree endanger, the action or teaching of the Church of England, or impair that close

connection which existed between the University, the Church, and the State? It appeared to him that that being the question, if it could be shown, as he firmly believed it could, that there was good-will on the part of the University that Dissenters should receive education there, and proceed as far as these clauses allowed, without any interference with the teaching, the discipline of the University, such as the attendance at chapel, and the attendance on lectures and examination—if all those points could be secured, he thought that the University ought not, and would not, refuse its assent to their admission. He would say but one word as regarded any injury to the influence of the Church. It might be argued that, although the Church teaching of the University might not be interfered with, its influence would. But he had come to just the opposite conclusion, and he knew no measure which would conduce more to consolidate and strengthen in every way the influence of the Church than a readiness on the part of the Church, so far as it was represented by the University, to open her gate, and extend to those who had hitherto been debarred from it the enjoyment of all those benefits as to discipline and teaching which she herself possessed.

He had now stated the scope and principal features of the Bill. As regarded some of them, he could not deny that the Government had had to make some sacrifices, and had experienced some disappointment. But the subject was a very large and a very complex one. It was one on which all educated men claimed to have their own opinions—*tot homines quot sententiæ*—and under these circumstances the measure was still a real and substantial reform. It dealt with the chief points to which the attention of Parliament had been called. It dealt with them cautiously and considerately, and he hoped it would be found that it dealt with them effectually. When a radical defect had to be removed, or when a fundamental principle had to be asserted, this had been done without hesitation; but where it had been possible to leave free action either to University or to the colleges without impairing those principles, that action had been conceded to them. The sentiments and feelings by which they had been actuated in preparing this measure had been a jealous care for the claims of the community, coupled with confidence in

*Viscount Canning*

the University itself. If their Lordships were disposed to take that view of the measure, and were willing to pass it into a law, he believed they might safely trust that Oxford herself would not be slow to lengthen her cords and strengthen her stakes; and so to use her new liberties as to extend her powers of usefulness, diffuse more widely her civilising influence, and fulfil more satisfactorily her duties to the great empire which she served and adorned.

*Moved*, That the Bill be now read 2<sup>a</sup>.

THE EARL OF DERBY: My Lords, the connection which I have the honour of holding with the University now proposed to be the subject of legislation will, I hope, be sufficient apology for my offering myself to the attention of your Lordships immediately on the close of the speech of the noble Viscount, who has proposed to you this Bill. I shall endeavour, in following him through the various subjects to which he has adverted, to imitate the clearness and precision with which he has stated his views. I may, in the first place, congratulate my noble Friend the Postmaster General upon being the first Member of your Lordships' House connected with Her Majesty's Government who, though this is the 6th of July, has been able to present to your Lordships any one measure of importance promised to be introduced on the part of Her Majesty's Government, and which has also been so fortunate as to have obtained the sanction of the other House of Parliament. I must also congratulate, if not him and Her Majesty's Government, at least your Lordships and the country, that this single exception to the general rule of rejection or abdication on the part of Government of their measures has been accompanied with such a series of metamorphoses, with changes of being so entirely beyond anything dreamt of, even in the Pythagorean philosophy, by such repeated alterations of the most paramount and important parts of the Bill, that undoubtedly much of the injury which would have been effected by that Bill in its original form has been materially mitigated, and much of your Lordships' time has been saved, and much of the opposition it would have encountered has by these salutary changes been averted. I hold in my hand the first and the fifth printed edition of the Bill. I know not how many more there may have been, but I know there have been five printed editions, for I have them here, and each successive edition has struck out some

important, and, to my mind, mischievous provisions, and inserted provisions less mischievous and less objectionable. But, my Lords, I am compelled to say, notwithstanding the modifications the Bill has undergone in its passage through the other House, that there still remains in it much matter for serious consideration, that it still contains many provisions which make it extremely difficult to say whether they are sufficiently valuable to outweigh the strong objections which I feel to the principles which are embodied in this Bill.

I confess I was surprised to hear the argument by which my noble Friend asserted the right of Parliament to interfere in the internal constitution of the University. I freely grant the position he adopted, both with regard to the Universities and the colleges, that neither one nor the other are to be considered as purely private bodies, entitled to dispose of their revenues and discharge their functions just as it pleases them, and apart from the control and superintendence of the Legislature. That amount of independence has never been claimed or demanded on the part of the colleges or the Universities; but this they do claim, that so long as they confine themselves within the limits of their assigned duties—so long as they confine themselves to that to which I was glad to hear my noble Friend give more prominence and moral effect than is given by the Bill itself, namely, the original intentions and purposes of their founders—so long they should be allowed to exercise an independent management over their own affairs, unchecked and uncontrolled by the interference of Parliament. My Lords, I do not mean to deny what has been termed the omnipotence of Parliament, or its right to legislate with regard to these or to any other bodies; but my noble Friend must, indeed, have been hard driven for an argument when he referred, in favour of the right of Parliament to legislate for the Universities, to a precedent set by Parliament itself—when he pointed out upon the Statute-book, a Statute to which I confess I should have alluded, as having a precisely opposite tendency and bearing, entitled the 13th of Elizabeth, in proof of the interference of Parliament in the internal affairs of the University. Now, my Lords, from my noble Friend having referred to that single Statute, the 13th of Elizabeth, I am confirmed in the opinion which I entertained, and which every search that I

have been able to make has confirmed also, that in the history of the Universities, in the history of the country, in the history of our legislation, this is the first direct interference of Parliament with the internal constitution and management of either of our great Universities. And when, my Lords, I say either of our great Universities, let me once for all remind your Lordships that although this Bill is directed against—no, I shall not say that—applies to the University of Oxford alone, yet we have had an authoritative declaration from the noble Earl at the head of Her Majesty's Government, that, if not in this, at least in another Session of Parliament, it is the intention of the Government to apply to the sister University of Cambridge precisely the same principles, and if not perhaps to the same extent, still precisely the same character of legislation, as by means of this Bill they are applying to the University of Oxford. Now, my Lords, I have said that I believed the Act of Elizabeth, to which my noble Friend has referred, was the only instance which he could find on the Statute-book of direct interference with the internal constitution of the Universities. My noble Friend read a portion of the preamble of that Act for the purpose of showing what were understood then, and what will not be denied now—on the contrary, what are contended for by the University itself—as the main objects and purposes of those institutions; but when he spoke of the interference of Parliament, he did not say in what that interference consisted. My Lords, up to that period the University of Oxford had exercised its privileges and its rights solely under charters and grants made from the Crown itself; but in the reign of Elizabeth it was desired to give to the independent legislation of the University and to the power which it exercised of self-government a more effective and also a more permanent character than was supposed, even in that age, to be derived from the unaided prerogative of the Crown; the 13th of Elizabeth was consequently passed for the benefit of both Universities. The preamble recited, that for the great love and favour which Her Majesty bore towards the Universities, and for the great zeal and care which the Lords and Commons had for the maintenance of letters and for the virtuous education of the youth of the Universities, and to the intent that the ancient privileges and liberties of the said Universities herc-

tofore granted by the Crown should be had in greater estimation, and be of greater force and strength for the better increase of learning and the further suppression of vice; and then follows the enactment constituting the Universities corporations: and then an enactment that the various letters patent previously granted by the Crown shall thenceforth be good, effectual, and available in land as amply, fully, and largely as if the same letters patent were recited verbatim in the Act. These, my Lords, are the terms of the Act of Parliament—confirming, establishing, and enforcing for ever the powers, privileges, and immunities of the University previously granted by the Crown—which my noble Friend thinks he is entitled to bring forward as a precedent for a Bill which meddles with every internal detail of the University of Oxford, destroys the whole of its self-government, and places it, or did place it as the Government originally framed the measure, under the absolute and entire legislative control of Commissioners nominated by Parliament. My Lords, my noble Friend in the course of his speech referred to the Commission which was issued in 1850, and he said that we might very well refer to that Commission for the purpose of observing, by the light of experience, how many of the evils and dangers which were anticipated from the issue of that Commission had really proved unfounded, or, at all events, greatly exaggerated causes of alarm. Now, my Lords, my noble Friend must forgive me for saying that I cannot conceive a more dangerous argument to use than this—that because a measure involving a violation of principle has not been attended with all the dangers and bad consequences which were anticipated at the time, therefore the violation of principle itself ceases to be injurious, and may be brought forward as a precedent upon some subsequent occasion for another violation of principle of the same kind.

My noble Friend said, in speaking of the objections which were entertained to the Commission issued in 1840, that those objections were that the issue of the Commission was held to be, on the highest legal authority, an issue exceeding the powers of the Crown, and not binding upon the University; and that if the University as a body had assented to, or had not remonstrated against, the issue of that Commission, the consequence would

have been that the authorities would, as they thought, have betrayed their trust both to themselves and their successors. It may be, my Lords, that much useful information has been derived—I do not deny that it has—from the labours of that Commission; but the irregularity of its original issue and its supposed illegality—for I will not go further—I will not now argue the point, although my opinion at the time was, and still is, that it was illegal—but the belief in its illegality undoubtedly tended, as my noble Friend has admitted, to make the evidence which was given before them of a very partial, and, to a certain extent, of an unsatisfactory character. Those who were disposed to introduce great reforms and great alterations into the University came freely forward to give their evidence against the existing practices of the University; but those who defended the rights and privileges of the University abstained from appearing before the Commission, and from defending those rights and privileges in the presence of an authority, whose legality, or the validity of whose commission, they did not admit. I am far from saying that much valuable information was not derived from the labours of that Commission, or that the inquiry which has taken place has not excited in the University an anxiety to examine into, and an activity in seeking out, whatever may be deficient in that institution, as well as whatever may be capable of remedying those deficiencies, which, perhaps, before the issue of the Commission did not prevail to a sufficient extent. I cannot, at the same time, admit to my noble Friend that bill of indictment which he commenced by bringing against the University of Oxford, charging it with its comparative failure, with the great means which he attributes to it, in extending sufficiently the influence of the teaching and the benefits which might be expected would be derived from such an institution. I cannot admit to him that the University has been so negligent of its duty, or that its results have been so unimportant and so inadequate in proportion to its means as my noble Friend appears to suppose; nor can I believe that, whatever course you may take or recommend to be taken by this Bill, you will ever come up to the sanguine expectations of those who imagine that the University will ever be able, in the present day, to provide education for a proportion of the population at all like the proportion which was borne by its students of former days

*The Earl of Derby*

to the inhabitants of the country. At the same time I am quite ready to say—and in the course of the observations which I shall have to offer to your Lordships I will endeavour to show—that the University itself neither has been of late years undesirous of extending the range of its studies, or undesirous of increasing the accommodation which it affords, and the means of educating within its walls a larger portion of the community. How far these endeavours have been successful is another point; but what I have stated to your Lordships is an object which the University has always borne in mind, and towards which it has taken effective steps.

My noble Friend was good enough to say that on the part of the Government there had been at the outset no desire—quite the contrary—to show any discourtesy either to myself as holding the high office of Chancellor of the University of Oxford or to the University itself in regard to the measure in which they proposed to deal with it; and he went through a statement of dates—with which I have no fault to find—to prove his assertion, namely, that, the Commission having reported in 1852, at the commencement of the Session of 1853 the noble Lord who is now President of the Council intimated in another place the intention of Her Majesty's Government to proceed with a Bill in the next Session of Parliament, and that in the month of November following a communication upon the subject was made to the University by the Government. Now, my Lords, undoubtedly that statement is true; but I remain still of opinion that the Bill as it now stands, recommended to us by Her Majesty's Government—not to speak of it as it was originally introduced into Parliament—goes infinitely beyond anything which was necessary for the purpose of effecting those alterations that were desired in the discipline, in the teaching, and in the extension of the University of Oxford. I am well persuaded, my Lords, that a measure of a purely enabling character, if it had been introduced with a friendly feeling, and introduced after due communication on the part of the Government of their views and wishes to the governing body of the University, would have been freely accepted both by the University and the colleges, and would have enabled them, with the assistance and co-operation of Parliament, which they were desirous of obtaining, to do everything which, for the interests of the University

and the interests of the country at large, it is desirable to effect. My Lords, great complaints have been made that the University, up to the period of the announcement of this Bill at the commencement of the Session of 1853 by the noble Lord the President of the Council, had taken apparently no steps for the purpose of dealing with this question. Now, my Lords, I can speak from my own personal knowledge of that supposed inactivity of the University, which I regret to have heard, to a certain extent, recognised and admitted by some of those who are sincerely attached to the University, and I have no hesitation in saying that the complaint in question has no foundation whatever; for I am in a condition to inform your Lordships that at the close of the year 1852—I having then the honour of being at the head of Her Majesty's Government—an application was made to me by the University for the issue of a charter which would have enabled it to deal with what are familiarly called "the Caroline Statutes," and to alter the constitution of the governing body of the University. The University was desirous of obtaining, at the same time, an alteration of the law of mortmain; and, as clearly one of those subjects, and, in the opinion of many gentlemen for whom I entertained the highest respect, both of those objects, would require the co-operation and confirmation of Parliament, I advised that no petition should be presented to the Crown for a charter, until there should have been such an Act passed by Parliament as would enable the University to make all the necessary and desired changes. Within a month after that period—to use the general euphemism of the House, when a Government is turned out—I resigned office; and the Government which succeeded me forthwith intimated, through the medium of the noble Lord the President of the Council, their intention of dealing with the question of the University of Oxford, pointing out, as my noble Friend has stated, the leading features of the measure to which they expected the University would agree. Beyond that announcement of the Government, and beyond the recommendations of the Royal Commissioners, the University had no means of ascertaining what was required and what was expected of them. Now, my Lord, if the University had proceeded to carry into effect the recommendations of the Royal Commissioners, I am afraid that at the expiration of the twelve-

month it would have found itself, as regards the Government and Parliament, in a worse position than it finds itself at the present moment; for although I perfectly concur in the eulogium which my noble Friend has passed upon the ability displayed in the Report of the Royal Commissioners—although I somewhat differ from him as to the prudence and expediency of some of the recommendations contained in that document—yet my noble Friend and Her Majesty's Government can hardly set themselves up as the advocates and supporters of the recommendations of the Royal Commissioners, inasmuch as of about forty-seven recommendations—some of them among the principal recommendations—put forth by the Commissioners, I do not believe there are half a dozen to which effect is given, or is intended to be given, by the present Bill. But, my Lords, immediately after the intimation by the Government that the University of Oxford would be expected to deal with this question in the course of the summer, the University applied itself with diligence to consider the recommendations of the Royal Commissioners, and to take evidence upon those recommendations from persons who had not appeared before the Commissioners, inviting all parties to give their deliberate judgment upon the merits of those recommendations. Finally, at the end of November, it issued a Report, a thick octavo volume, in which it embodied, not only all the evidence which it had taken, but also its own recommendations, stating how far it was prepared to assent to, how far it was prepared to dissent from, and how far to vary, the recommendations of the Royal Commissioners. My Lords, that Report was issued just at the moment when I received from the Secretary of State for the Home Department that letter to which my noble Friend has referred. I immediately put myself in communication with the University; and on account of a desire expressed by the Secretary of State for the Home Department, that the wishes and views of the University should be laid before him at the earliest possible period, so as to enable Her Majesty's Government to prepare in the month of November a measure which they intended to introduce into Parliament during the next Session, the University forthwith applied itself to this subject, not for the first time, but after having carefully considered the recommendations of the Royal Commissioners, and published a Report of its own. The first

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topic for its consideration manifestly was the constitution of the governing body of the University—because it would have been an absurdity on the part of the existing governing body of the University first to decide upon the various changes which they would make in the constitution and discipline of the University, and then to transfer the execution or non-execution of those recommendations to another body with which they had nothing to do, and which was to supersede them. The first object, therefore, was the new constitution of the governing body of the University; and the recommendations of the University upon that point were forthwith sent, in the same month of November, to Her Majesty's Government and to the noble Earl the First Lord of the Treasury. Well, the noble Earl objected to the recommendations of the University; but he did not, nor did the Government, make the slightest movement towards suggesting amendments which, if they could have been introduced by the authority of the University itself, would have superseded the necessity of Parliamentary action. On the contrary, the immediate answer was, "The proposition made by the University is wholly unsatisfactory;" and although the noble Earl undoubtedly had the courtesy to send me privately a copy of the Bill one week before it was introduced into the House of Commons, yet it was sent with this singular request—which seemed as if were intended not to consult the University—that it was for my own special information, and that I was not to communicate it to the heads of houses. Within a week from that date the Bill was upon the table of Parliament, and the first intimation which the University of Oxford had of the intentions and requirements of Her Majesty's Government was the Bill introduced and printed for the House of Commons on the 17th of March, 1854. Now, my Lords, I must say that this was not a mode in which the University could consider itself fairly or amicably dealt with upon the part of a Government which professes its desire—and I am delighted, though somewhat surprised, to hear my noble Friend admit such to be the object of this Bill—to increase, extend, and promote the liberty of the University itself.

My Lords, to touch the merits of the question with regard to the institution of the governing body, let me recall to your Lordships' recollection what were in substance the recommendations of the Royal

Commissioners upon that point. The Royal Commissioners had recommended that there should be two legislative bodies in the University, and that, instead of retaining to the Hebdomadal Board, consisting of the vice chancellor, the proctors, and the heads of houses, the sole executive and legislative power, they should be permitted and desired to retain the power which they still exercised; but that there should be a second and additional body constituted, which should introduce the principle of representation into the University, which should include a certain number of the professors of the University, and which, being elected by the University, and fairly representing its views, should be another branch of the internal legislation. No, I beg pardon, the Commissioners had recommended that the second body should be constituted, not including, if I recollect rightly, that principle of representation at all, but that it should include a certain number of professors and a certain number of tutors, together with the members of the Hebdomadal Board, and, thus formed, was to have co-ordinate powers of originating or vetoing any measures. That Hebdomadal Board, which has been so much abused, which has been held to be so neglectful of its duty, and so desirous of retaining all the power in its own hands, took into consideration the recommendation of the Royal Commissioners—and what was the course which the members of the Hebdomadal Board recommended? That their own functions, as recommended by the Royal Commissioners, should still continue inviolate and untouched; but that there should be connected with them another body, consisting of an equal number with themselves, a body partly elected by Convocation—for the Hebdomadal Board, unlike the Royal Commissioners, recognised the principle of representation—but in which a number of the members, certainly not less than six or eight, should be professors of the University, in order to secure its due weight and preponderance to that class of teachers. Her Majesty's Government thought fit to intimate their opinion that this was a system of local government which, to use their own expression, was deficient in that "unity and promptitude of action which were so extremely important to the legislative body of the University." I should add that a provision was offered by the Hebdomadal Board, that in the event of any difference

of opinion between themselves and the newly constituted Board, the two should immediately meet together, and that a bare majority of the united Boards should determine whether or not the measure in dispute should be submitted to Convocation. My Lords, setting aside all questions of detail as to whether the number of professors was sufficiently large, or whether the members elected by Convocation were sufficiently numerous—setting aside these questions of detail upon which the University would have been ready, I am satisfied, to listen to the recommendations of Her Majesty's Government, with every desire to come to an amicable arrangement—I venture to say that the proposal of the Hebdomadal Board was more liberal than that of the Royal Commissioners, and that it will contrast favourably with the proposition which Her Majesty's Government have embodied in this Bill. Now, my Lords, what is that proposition? In opposition to the views and wishes of the Oxford University, and of the Royal Commission, Her Majesty's Government recommend that the powers of the Hebdomadal Board should cease and determine. My Lords, I think that in doing so they commit a great mistake; for, although, as my noble Friend has said, no person desires to retain in the hands of the Hebdomadal Board the whole control over the legislation of the University, yet I am of opinion that there was a great advantage in having on that Board a representative from each of the colleges and halls of which the University is composed. I differ entirely from my noble Friend in thinking that, because a man is selected to be the head of his college on account of his superior fitness for discharging the duties of that office, therefore that fitness is not consistent with, and can be no argument, *a priori*, in favour of his equal fitness for sharing in the management of the general affairs of the University—because, *a priori*, the argument would evidently be in favour of his fitness rather than against it. I think it is a great advantage, with respect to any legislative measure for the University, that it should have to be considered and approved by a Board composed of persons representing the interests of each of the colleges, and who would understand the operation of any general measure upon each of those colleges;—but, unfortunately, my Lords, the mode proposed by the Hebdomadal Board was deficient in "unity and promptitude of

action necessary for the legitimate body,"—at least such was the opinion of Her Majesty's Government, and which could not be obtained by two bodies elected upon different principles and quite independent of each other; and it was overlooked that the members of that Board had recommended the establishment of another body, elected on quite a different principle, and intended to exercise quite a different function. It appears to me, my Lords, that the course adopted by Her Majesty's Government must have received the cordial support of, if indeed it was not suggested by, the noble Duke the Minister of War, who thinks that two bodies differently constituted, elected by different constituencies, must be deficient in "unity and promptitude of action," and that it is necessary, in order to secure that unity and promptitude of action in two legislative bodies, to assimilate and make them as nearly as possible resemble each other. That, however, is not the Constitution of this country; it is not the principle upon which Parliament has proceeded; and if, sometimes, "unity and promptitude of action" is interfered with, by the difference in the constitution of the two branches of the Legislature, I cannot help thinking that the country gains in stability quite as much as it loses—though perhaps it may gain in that respect also—by the absence of promptitude. Well, my Lords, what is the prompt legislative body which the Government propose to substitute for that cumbrous machinery, as they call it, suggested by the University? I will tell your Lordships what it is. They first of all create a body composed of one-third of the heads of houses or part of the existing body, one-third of professors, and one-third of members elected for that purpose; and so far they combine in that one body the various elements of the representation of the colleges through the heads of houses, of the University at large through the elected members, and of the professorial element through the six professors. Well, but having done that, what do they proceed to next? Why, they proceed to create another body, whose functions I am not surprised my noble Friend touched upon very slightly in the course of his speech. I mean that body termed in the Bill Congregation. Now, my Lords, the object of the Government has been to secure "utility and promptitude of action." Observe how they secure it by Congregation. Congre-

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gation is to consist of all residents within the University of Oxford, including the various classes of heads of houses, tutors, and professors, and will be a body amounting to between 250 and 260 in number. It is to have two functions, and in each of those functions its action cannot fail to be injurious. First of all, it is to be a constituent assembly and is to elect the members of the Hebdomadal Council, and next, it is to form an intermediate house of—I was going to say legislation—but I mean obstruction to legislation. Now, I want to know, in the election of the governing body of the University, upon what principle it is that the Government, who are such advocates for the extension of the representative system, and who are such eager opponents to the concentration and monopoly of power by the Hebdomadal Board and heads of houses, have confined their election of the whole governing body of the whole University to 250 or 260 out of the 2,000 or 3,000 members of Convocation, who have a deep interest in the University, although they are not resident at the spot, and who are intrusted with the hardly less important duty of electing those who are to represent the interests of the University in Parliament? You talk of the representative system, and then when you come to choose your legislative body, you not only exclude those who have been the ornament and pride of the University, who have scattered themselves over the country, have mixed with other men, and have their ideas expanded and enlarged, and who would form a most useful and valuable element in the constituency of the University; but you, who complain of the old and foolish prejudices, of the close and monkish views entertained by the University—you confine the election of the governing body wholly to those who are perpetually resident in the University, and who, if any are, must be most subject to those unhappy influences which you condemn. What becomes first of your representative system, and next of your desire to extend the benefits of the University as widely as possible to the whole country and every department of life, when the whole of the governing body is to be elected only by those 250 or 260 persons who are immediately concerned in the affairs of the University, are resident within its walls, and are connected with its system of teaching? I say, my Lords, that as to the constituent body, to the proposal of Her Majesty's Government I infinitely pre-

for the recommendations of the Royal Commissioners. But what other function, in addition to the election of the Hebdomadal Council, does Congregation perform? Really in the "unity and promptitude of action" view of the case, I think it somewhat extraordinary that the Royal Commissioners recommended that the second body should have an equal power of originating measures with the Hebdomadal Board; but the Government says to Congregation, "No, we establish you, but you shall have no power in originating measures; nay, more, you shall have no power of amending; you shall have the power of debating, but not of amending; you may debate in the English language upon the first promulgation of a Statute, but you must not make any alteration or amendment." It is said, indeed, that any member of Congregation will be able to submit to the Hebdomadal Council any amendment which he may be desirous of having carried upon the first promulgation of a Statute; but so may any of your Lordships; for I apprehend any one of us, in his individual capacity, may write a letter, upon the first promulgation of a Statute, to any member of the Hebdomadal Council, requesting such an alteration in that Statute as he may think desirable. When, however, an independent member of Congregation has so submitted his views previously to any discussion in Congregation upon the subject, the Hebdomadal Council may adopt his amendment, and, if so, may promulgate the new Statute; but if they do not, then the question in seven days comes before Congregation, and Congregation has then only the power of saying "aye" or "no;" and in the event of their saying "aye," the measure is not one whit further advanced than before, inasmuch as it has no power, efficacy, or validity, unless it has received the further sanction of Convocation. So much for the promptitude and facilities of legislation which are given by this Bill. What facilities can be given to the legislation of the University by the body called Convocation? It interposes an obstacle, but it will not facilitate legislation in the slightest degree. But, more than that, supposing the Hebdomadal Council should be of opinion that a particular Statute would be exceedingly acceptable to the 2,000 or 3,000 members of Convocation who take a deep interest in the affairs of the University, in that case the 250 members of Congregation may place their

veto upon it, and a bare majority of these 250 persons have the power of saying to the Hebdomadal Council, "The proposition which you think would be acceptable to the University at large shall not be submitted to them at all; we prohibit Convocation from exercising any judgment in the matter, and the Statute must go no further." Now I say, my Lords, that, for the purposes of legislation, such a body exercising such a power would be not only useless, but that it is obstructive in its character, and absolutely mischievous. My Lords, you may depend upon it that the resident members of the University, in all matters, more especially those concerning the government of the University, will always exercise a preponderating influence, notwithstanding their small numbers, over the non-residents. It is right that they should do so; but it is not right to deprive the University at large of the right of electing those by whom the University is to be governed; nor is it right to deprive them of the privilege of having submitted for their consideration and judgment those measures which the governing body of the University may consider necessary for the advantage of the University itself.

Now, my Lords, Her Majesty's Government are proposing to appoint Commissioners, to whom it was originally intended to give the absolute and uncontrolled power of legislation for the University. Some of them are men for whom I entertain the sincerest personal regard and friendship; men who have conferred the highest honour on the University, as well as upon themselves, by the success of their University career; but their appointment is to last only for a limited period;—you intrust them for the space of two years with the whole legislation of the University, but at the expiration of that time they are to have no voice in the legislation of the University, and even no vote in the election of the persons who are to form the permanent governing body of the University. How can you reconcile these contradictions? I ask your Lordships to say whether in this respect the measure proposed by the University—faultless, I do not say it was—was not more liberal, and one more calculated to promote "unity and promptitude of action" on the part of the governing body than that which Her Majesty's Government have thought proper to substitute in its place? Before I leave this subject of the constitution, I may refer to the remarks of my noble

Friend upon the alterations introduced into the Bill in the other House of Parliament as to the mode of constituting the Hebdomadal Council. My noble Friend did not say whether it was or was not the intention of Her Majesty's Government to adhere to all the changes which have been made in the Bill. With regard to two of the changes to which my noble Friend referred, he certainly assured your Lordships that it was the intention of the Government to adhere to them; but, with respect to that which relates to the constitution of the Hebdomadal Council, my noble Friend did not give your Lordships any such assurance. Now, my Lords, although the Bill has not been introduced to your Lordships by a Member of the Cabinet, still I think we ought to have received a clear and distinct intimation whether Her Majesty's Government do or do not intend to adopt the amendments introduced into the Bill in the other House of Parliament.

My Lords, the observation which I made upon the danger of the precedent set by this Bill, though that precedent may not be followed by any immediate evil, applies with the greatest possible force to that which is a prominent feature of this measure, namely, the appointment of the Commissioners who are to govern the University. I cannot but think that, though that is a fundamental principle of this Bill, and not desiring to prevent legislation on this subject in the present Session, and, looking also to the absence of any distinct declaration of opposition from the University itself, I cannot, I say, but feel that this first interference by Parliament, and this first appointment of Commissioners to superintend the legislation and conduct of the University, is a measure of very dangerous precedent, leading to future intervention by Parliament in a most mischievous manner in the affairs of the University, destructive of that independent character which the University has hitherto always enjoyed, and which I, for one, desire it may ever continue to enjoy; and it is no answer to me to say that, however objectionable the issue of such a Commission may be, and however exorbitant the powers proposed to be intrusted to them, yet the Commissioners themselves are men of unblemished honour, of great ability, great integrity, and men to whom may be safely confided functions of this nature. It may be so, and I know it is so in the present instance; but what security shall we have

that in future there will always be a Government professing equal friendliness to the present towards the University, or we shall always have Commissioners will exercise their powers in the same and moderate manner as I am sure the proposed Commissioners will do. The institution of such a Commission by Parliamentary authority, then, is, in my opinion, the most fatal blow and a dangerous precedent whatever the immediate result may be to the future independent action of the University. But I am satisfied it is too now to offer any opposition to that proposition—especially, as I have said, when the University itself has not manifested that sensitiveness which I should have expected in regard to such an interference with legislative independence. The whole is, however, based upon the powers given to the Commissioners, and there, though reluctantly, I abstain from opposing their appointment. I do wish to obtain further increase of those limitations. I am glad to see the other House has proposed upon the powers which the Government sought to place in the hands of these Commissioners. And here I may fitly refer upon that part of the question to which my noble Friend adverted, namely, the manner in which the functions of the Commissioners are to be administered, and the control and control to which the exercise of those functions is to be subject. Those conditions have undoubtedly been multiplied, and the powers of the Commissioners diminished in the progress of the Bill through the other House. As originally introduced, it was the Bill gave to the colleges and the University power to legislate to a certain extent, yet, if their measures did not satisfy the Commissioners, they were to go for their decision, their decision was to be set aside, and if they did not succeed in satisfying the Commissioners by the close of December, 1855, the Commissioners would have nothing to do but to satisfy themselves by legislating as they pleased upon the elements, rights, and privileges of the University and the colleges. As the Bill originally stood, all the preferences were abolished, whether as regarded local founder's kin, or particular schools, the claims of indigence were repudiated specifically and in express terms—claims of indigence for respecting which my noble Friend took so much credit to the Government, and which he wished to encourage to a degree that would be prejudicial, instead of beneficial, to

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claims of indigence themselves. All these different claims of preference were by a clause in this Bill at first declared to be of no weight, and were to be set aside, efficiency being made the sole and exclusive test of admission to the emoluments of the University. The wills of the founders were to be disregarded, the fellowships to be remoulded and remodelled according to the will and pleasure of the Commissioners; the obligation imposed on a certain number of the fellows to take holy orders were also to be set at nought; and a number of minute and complicated details were introduced into the Bill, as well as a variety of enactments of a perfectly ridiculous and absurd character; however, inasmuch as all these provisions had been happily since struck out at one fell swoop from the Bill, upon the principle of the maxim "*de mortuis nil nisi bonum*," I will not say another word about them. But my noble Friend says that the colleges, like the University, have confided to them the execution of great and important trusts, and it is but right that the State should exercise superintendence and control over their fulfilment of these trusts. Be it so; they certainly have trusts which they are bound to execute—but what I say is, that if they do not faithfully execute their trusts, if any abuse exists, or any violation takes place of the duties and obligations they have undertaken, the founders' wills and the Statutes of the University recognise a legitimate and constituted authority in the visitors of the colleges, to whom any appeal may be made by any person who feels himself aggrieved, and whose duty it is to see that the rules of the colleges are observed, and the objects of the founders' wills complied with. Thanks to the other House of Parliament, the colleges will now be able to legislate with something more of freedom in their own concerns, and with something more of control over the decisions of the Commissioners; but I was glad to hear one expression drop from my noble Friend, and I hope that it is indicative of the feeling of the Government; I allude to the sentence in which he observed that the colleges would now be entitled to legislate, of course with the consent of the visitors. In the Bill as it stands there is no "of course," and it is the object of one of the Amendments which I propose to introduce if this Bill goes into Committee, and to which I am confident I shall have the support of my noble Friend, to provide that the legislation of the colleges in respect to their

Statutes shall require to have the consent and concurrence of the visitors to give it force and validity. Undoubtedly, the colleges have the power of negating, to a certain extent, the recommendation and the legislation of the Commissioners; but that can only be exercised if two-thirds of the governing body of the college declare, under hand and seal, that the legislation would be injurious to the college as a place of learning and of education. Now, it is quite possible that the Commissioners may pass Statutes which a college may not be able to certify—which, at all events, it may not be able to certify by two-thirds of its governing body—would be injurious to the college as a place of learning and education; and yet these Statutes might be highly objectionable, and might inflict serious evil upon certain parties, and such as they would never think of passing themselves. There are other checks upon the powers of the Commissioners included in the present Bill, with respect to which it will be my duty to submit my views to your Lordships in Committee, but with which I will not now trouble you, as I wish now to deal mainly with the principles and the salient points of the Bill. Yet I must call the attention of your Lordships to the proviso in the 4th clause. I think it right that the Commissioners should have power to inspect all college documents, such as deeds and founders' wills, and one of the strongest grounds—in my opinion the only strong ground—upon which this Commission has been vindicated, is that certain colleges in the University are bound by solemn oath not to propose or consent to any alteration whatever in the Statutes. I think the Bill is perfectly right in abolishing, for the future, the obligation of all these oaths, and leaving the colleges unrestricted in this respect; and if the Bill consisted of only these two provisions, namely, one for enabling the governing body of the University to reform itself in friendly communication with Her Majesty's Government, and the other a permissive power to the colleges to deal with the existing Statutes for the future, notwithstanding the obligation, which should be declared hereafter illegal, I could see no objection to the Bill, and believe it would pass with the concurrence of all parties. Entertaining this opinion, I cannot help thinking, however, that the 4th clause carries the principle too far, because, while empowering the Commissioners to inspect college documents, and even within

a limited period to go back and investigate the accounts of the college, yet the concluding words enact that no oath previously taken by the members of the college, however sanctioned by time and recognised by law, shall be pleadable in bar of the obligation to answer any question that the Commissioners may put to them. That I think will be a serious blow to the freedom of conscience, and may involve very great difficulties, because it will be impossible to argue that when a man conscientiously believes that he has taken an oath which was recognised by the law of the land, and binding upon him to all time, any legislation by Parliament, however it may alter future oaths, will absolve him from the violation of a solemn obligation which he has previously undertaken.

My Lords, I pass next to another and very important part of the Bill, on which I regret to find that my noble Friend opposite has expressed on the part of the Government a very strong and decided opinion that nothing will induce them to consent to an alteration or modification—I mean the establishment of private halls, unconnected with the University, or with any college, and subject to the control of neither. Your Lordships will recollect that the establishment of such halls is a matter absolutely within the control and competency of the University now, which, if it thought fit, could establish them to-morrow, without requiring any additional powers from Parliament for that purpose. But if you appeal not to the Hebdomadal Board, nor to your new Hebdomadal Council, nor to the Congregation consisting only of residents, but to the whole Convocation, residents and non-residents, you would find them to be almost unanimous in their deprecation of this measure. My noble Friend says that the main object in the establishment of these private halls is to afford greater facilities for the more economical education of the poorer class of students. Now, I think for the poorer class of students, the University is not a fitting place for them to resort to for the purposes of education. [Viscount CANNING said, that the noble Earl had misunderstood the grounds on which he had advocated the establishment of private halls.] Well, if not by my noble Friend, yet there can be no doubt that one of the main recommendations of the establishment of private halls is the assumption that poor students would obtain a cheaper education there than they can get in the more expensive college. In

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passing slightly over this question, allow me to remark that I do not think any inference can be drawn as to the failure of the University to perform its duty, because there is a small number of persons compared with the whole of the educated classes of the country who pass through the University. Recollect the period at which education commences at the University is not till seventeen, and in most cases eighteen years of age; and with the exception of persons of leisure and ample means, who do not apply themselves early to any profession, and with the exception of persons intended for the Church, of which I hope the University will always continue the nursery—with these exceptions, and also that of other young men who are preparing for the other liberal professions—the bar, for instance—the great body of the comparatively educated classes of this country have to enter the struggle of active life at seventeen and eighteen, or to prepare themselves by the time they have attained that age by actual employment in their chosen avocation. And in various parts of the country there are commercial schools for the middle classes where a valuable description of education is given up to a certain period of life; but very few who enter those schools remain there till the age when it would be natural for them to go to the University to finish their education. Consequently, it can be no matter for surprise, even if more ample accommodation were provided at the Universities by the extension of existing or the establishment of new colleges, that a comparatively small proportion of those who have early in life to make their way in the world by the active prosecution of a profession enter the University, whatever advantages the University may hold out to persons differently circumstanced. As regards the question of cheapness, I can assure my noble Friend that he has very greatly exaggerated the necessary or even the probable expenses of the great body of young men at the University—I mean those expenses that are strictly chargeable to the University and the colleges, and not those which the greater wealth of the parents, and perhaps the folly and imprudence of the young men themselves, lead some of the students into. These latter are not to be taken into account in striking the average expense of an education at the University. Now, without going so far as the case of the servitors of Christ Church (among whom there have been men who have attained high honours),

and whose board and education cost very little over a guinea per week, I am quite sure that many and many a young man passes through the University and attains its highest honours, whose expenses and subscriptions of all kinds—including even board—for a University education, do not exceed from 100*l.* to 120*l.* a year; and I am satisfied that I am speaking much within the bounds when I say that the average expenditure of young men for this purpose, which my noble Friend estimates at 600*l.*, certainly does not reach beyond one-half of the amount he has stated. It is impossible that private masters, setting up establishments within the town and neighbourhood of Oxford, can give these young men either as good or as cheap an education as they can obtain at the present moment. And why is this so? There is nothing more clear or more universally recognised than that the larger the establishment the more cheaply it can provide for the maintenance of all its members. But, further, the colleges have endowments which make the education of part of their body, comparatively speaking, gratuitous. The other members pay, some of whom purchase greater luxuries and comforts; and the produce goes to the benefit of the college; and the poorer students, out of the superfluities which the others disburse, enjoy the means of education, and receive advantages which, but for that superfluity, they could not obtain. Well, sanction these private halls, and in the first place you will benefit not the poor, but the rich, whilst young men in a higher station, who combine the advantages of a private tutor with a residence in college, will, regardless of additional expense, be sent to study with their tutors at their private halls, and will be exempt from all college discipline. If these young men are withdrawn from the colleges, and confined not to private, but to public lodgings, as they will be, you will, as I have said, deprive the poorer students of the advantage of the contributions of the wealthier portion. But, further, I say, unhesitatingly, that the poor students cannot obtain as good an education in these private halls as they do in the colleges. The complaint against the colleges now is, that the tutors are not able to give instruction in the various and increasing branches of knowledge which are now becoming necessary parts of education, and which are essential to the immediate object of the University studies, namely, the attainment of a degree. It is said that the largest colleges cannot

supply teachers qualified to give instruction in mathematics, in modern history as well as ancient, and in the several sciences—chemistry, for example—as well as in classics. Well, how will young men, placed under the superintendence of a single master of arts in a private hall, and who cannot avail themselves of the services of any one of the tutors of colleges, be able to receive adequate instruction in all the various branches of study requisite in the present day? You throw them on the only resources of the single tutor in whose house they happen to board, and leave them to attain such knowledge as they can imperfectly and perfunctorily pick up by attending the lectures of professors, whom it is not, as I am happy to find, the chief object of the Government, although it has always been a great object with the Commissioners, to substitute, to a great extent, for the college tutors. I object to this proceeding, because, not only will these halls not give a good or an economical classical and scientific education, but they will altogether subvert and destroy the discipline of the University. You withdraw a certain number of the young men from the control of the University and college authorities, and thus establish a distinction between them and the other members of the University, which, in itself, is highly mischievous, but which also, by their relaxation from the bonds of discipline, will render the members of the other colleges dissatisfied with the restraint to which they are subjected, and thereby interpose a most serious obstacle to the effective management of the University itself. You say it is true that these houses shall not come into operation till the University has passed certain regulations for their management; but I believe the University will encounter insuperable difficulties in attempting to regulate these private halls. For example, take divine worship. What provision is it possible for the University to make for that—which I presume will be conducted according to the practice of the Church of England—and which is to take place, remember, not in the college chapel, or under college authority, but in lodging-houses, where a single master of arts has the superintendence of two, three, or four young men who are living with him? Again, is there any discretionary power vested in the Vice Chancellor, or any other person, as to the refusal to sanction the establishment of these houses by any individual master of arts, however objectionable

he might be. Not at all. Any master of arts has the right to claim leave to set up one of these independent halls in any place within a mile and a half of the centre of Oxford—a limit which those who know anything of Oxford must perceive will allow of young men being placed in the most objectionable parts of that city. Besides, this rule would admit of the establishment of halls as far out as the surrounding country districts, and consequently would take them out of the control and direction of the University authorities. Yet one of the advantages of the University of Oxford is found in the great concentration of the colleges, and the close proximity of one college to another, by means of which all the habitual places of resort and haunts of the students were immediately under the eye and control of the authorities to whom the care of their discipline was intrusted. To give a limit of a mile and a half to young men would be withdrawing them from the beneficial influence and control which are supposed to be exercised by the concentrated association of the colleges. But if masters of arts were to be required to superintend private halls scattered about the rural parishes a mile and a half round, I have heard it jocularly remarked that it will be necessary to give the proctors a stud of four or five horses to enable them to go and see what the young men are about. My noble Friend says that one great object of the Bill is University extension. The extension of the University is no doubt a very important object, but I contend that it may be attained wholly irrespective of these private halls, which it is sought to withdraw from the supervision of the University. My noble Friend says that since the introduction of this Bill, and (arguing, I suppose, on the principle of "*post hoc, ergo propter hoc*") on account of this Bill, the University authorities have taken certain steps to increase the amount of accommodation for students. But what is it they have done? They have signified their wish to establish affiliated halls—that is, buildings connected with particular colleges, and to be under the superintendence of a master of arts, where—not their education—but their board will be had on a more economical scale; the members, however, to be subject to the supervision and discipline of the colleges. They have further sanctioned—even the heads of houses have sanctioned and recommended to Convocation the presentation of a subscription

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of 25,000*l.* towards the establishment of an independent college for the poorer class of students, if such persons should choose to avail themselves of such an institution—but with this proviso, that the establishment shall be conducted according to the principle and practice of the University. They have gone further than that; learning that there are some parents who are desirous of giving their sons a University education, and of residing themselves at Oxford in order to retain them under their own guidance and control, the University authorities have given their sanction to this system. A noble Friend of mine informs me that this practice has prevailed very advantageously at Dublin University, and that he himself was educated under this system. Well, there is not the slightest objection on the part of the University to the adoption of the system; nay, more, a Statute has been passed to carry the system into effect. If there was any family who, from motives of economy, was desirous of leaving their own homes and taking up their residence in Oxford, there was nothing to prevent any young man belonging to that family availing himself of the advantage of the University, while still remaining under paternal control, provided he became a member of a college, and became associated with and subjected to the discipline of the University. These were the measures which the University have sanctioned, and to which, as far as the governing body is concerned, there is no objection whatever. I ask, then, whether there is even now any limit to the establishing of halls, provided always that those halls are subject to University discipline? The introduction of these private halls to be conducted by masters of arts, without being subjected to the control or discipline of the colleges or of the University, is a principle most dangerous to be admitted; but it becomes infinitely more dangerous when you connect it with another provision of the Bill which renders it unnecessary for any member of the University to take an oath either on matriculation or on taking a degree. These two propositions being viewed together, each must have a material effect upon the operation and the working of the other. If you sanction the establishment of these private halls under the control of masters of arts, but not subjected to college rules or to the obligations required by the University, and, above all, not subjected to those rules which practically enforce education upon

the principles of the Church of England—if you allow these halls to be established, and to become the nurseries of dissent—if masters of arts (many of whom, unfortunately, have fallen off from the Church of England, and too many of whom would be found ready to admit persons of all kinds of Dissenting communities to congregate in their halls)—I say that if you sanction such a system as this, you will introduce not only confusion into the body, but such a state of things as must be absolutely destructive to the whole system of the University.

Having thus expressed my views upon the propositions contained in the Bill, I pass on to state frankly the opinions I myself—and without speaking for any one else—entertain on some of these points. I have always held that the imposition upon a young man of seventeen or eighteen of the obligation to subscribe to the Thirty-nine Articles on his first entrance to the University is, not as bearing on the Dissenters simply, but on the members of the Church of England themselves, to say the least of it, a most injudicious proceeding. I go further, and say it is trifling with a very solemn and a very serious matter. I think, moreover, that no injury would result to the University, but the contrary, if young men whose parents may have been Dissenters from the Church of England had not the door of the University shut in their faces, provided they were willing to become members of it, to submit to and adopt its rules, and to observe its obligations. I think many young men would come, as many must come, with their minds not fully made up, but who, while nominally Dissenters, would, by mixing with men of different feelings and opinions, have those prejudices worn away which they had imbibed in their father's house, and would discover that there was not so broad a difference between the various sects of religionists as they had been taught to believe. It often happens that only one single difference of opinion constituted the ground of dissent, that single point of difference being the one constantly brought prominently forward at the family board against the Church of England. Many men may enter, nay, many men have entered, the Universities nominally as Dissenters, but who have left it as sincerely attached members of the Church of England as any of your Lordships. But, in saying this, I wish not to be misunderstood. I object to placing this preliminary

bar in the way of the admission of young men, whether belonging to the Church of England or being Dissenters, to the instruction to be obtained at the Universities. I feel that it is an obstacle which ought not to be imposed in their way. But if I thought the effect of this or the succeeding clause was in the slightest degree to dissociate the University and the colleges from their close and intimate connection with the Church of England—if I thought that it could in the slightest degree countenance any pretext on the part of the Dissenters, that for the purpose of accommodating their views the principles and practices of the University were to be altered, I then should look on this question in a very different light; and as I am desirous of removing the bar to their admission, so I am equally sincerely, cordially, and determinedly opposed to the severance of the intimate and close connection between the University and the Established Church. I confess if anything could induce me to take a different view of this question from that which I am disposed to take, it would have been the argument by which my noble Friend advocated the two clauses which were inserted after the third reading of the Bill in the House of Commons. The argument of my noble Friend was, that the Dissenters were powerful in regard to numbers, that they had rendered valuable services at the bar, in Parliament, in the camp, and in various other departments of the State, and that, therefore, they had a right to claim a participation in the advantages of the University, and that, consequently, the University ought to alter their system of teaching in such a manner as might meet their peculiar views. That is a principle I never for a moment will sanction. I never will sacrifice the inestimable advantage of having the two Universities of Oxford and Cambridge as nurseries for the Church of England, and for the raising up of men who, on comparatively easy terms, have the means of associating with persons of all ranks and degrees of life, and who subsequently go forth to discharge all those sacred duties which they have first been taught by the faithful training in the Universities, and where the connections that they have formed will be a source of gratification to them through life. Therefore, my Lords, I shall require from Her Majesty's Government, before I proceed to vote for the two clauses to which I have been alluding, a distinct declaration that in their judgment

no such consequences as I have described will follow, or that it is intended as a consequence of admitting Dissenters to the University to demand and claim an alteration in the system of teaching. I call upon Her Majesty's Ministers to declare that the clauses will not give to any Dissenter any control, power, or authority, over the discipline, teaching, or government of the University. I wish to learn from them how the degree of bachelor of arts is guarded in this respect—whether there are not fellowships in the colleges which, if this clause passes, may not be given to Dissenters—whether there will be a protection against this result in the Act of Uniformity—whether they are prepared to insert a proviso to preclude it, in conformity with what I believe is the practice at Cambridge; and I want to know further from them whether, in sanctioning the granting of degrees of bachelors to Dissenters, they do not give them a claim to be appointed to the masterships of many endowed schools in this country where the object of the founder in requiring the masters to be bachelors of arts in one of the Universities was practically for the purpose of securing that they should be members of the Church of England. I hope we shall have a satisfactory explanation from the Government on all these subjects; and on that explanation may depend the vote which I shall give, certainly with regard to the second, and perhaps even with regard to the first of these clauses. But this I say, that these clauses assume a very different character, if this House should unfortunately and unhappily sanction the establishment of private halls. Although I am ready to admit that the intermixture of a small and unimportant portion of Dissenters among the colleges, to whose rules they were subject, might be unobjectionable, I am not prepared to establish in these private halls congregations of dissenting young men in the centre of the University, or to encourage the propagation in Oxford, either of Protestant dissent on the one hand, or the inculcation of Roman Catholic opinions on the other. I am aware that I am troubling your Lordship at very great length, and therefore I will only further observe that in the Amendments I propose to submit to your Lordships in Committee, which I shall probably put in to-night, my principal object will be to impose further restrictions upon the arbitrary power of the Commissioners, to provide checks against mismanagement, to

give greater weight and influence than in some cases is given by the Bill, or rather taken away by it, to the voice and opinions of the visitors of the several colleges; and, above all, to provide that in your legislation you shall adhere—I will not say strictly—to all the obligations and all the injunctions of the wills of founders—but that you shall most scrupulously and carefully guard against altering the disposition of the trust funds of the University and the fundamental Statutes of the colleges by provisions that shall not be consistent with the main and principal designs of founders. Subject to that limitation, I for one do not object to any amount of extension which the colleges and the University may give in order to render them more practically useful, to free them from obsolete and onerous obligations, to extend and increase, as they are daily doing, the range of study and the amount of instruction, and, if it be possible, to embrace within their walls and subject to their discipline a larger portion of the population. I earnestly hope that by the joint endeavours of this and the other House of Parliament—though I consider the measure as involving a mischievous and dangerous principle which cannot be eradicated—this Bill may be so amended as to have much of the evils which it originally contained removed from it, and that many of the benefits originally contemplated may be confirmed and carried into effect. I am convinced that these Amendments will, at least, make the measure more desirable than if the Bill had been passed in its original state. At all events, I am sure your Lordships will agree with me in the hope that this question may be closed once and for all, and that Parliament should not be called upon year after year to follow the dangerous principle of interfering with the internal management of the Universities. In that hope and in that expectation, however strong may be my objection to the principles of the Bill, I am content to wave that objection, so far as not to refuse my assent to, but to concur in the second reading of the Bill.

VISCOUNT CANNING, in reply, said his noble Friend had misrepresented, unintentionally, what he had said in respect to the admission of Dissenters. He said this—that the University being in connection with the State, being under great obligations to the State, and having by general admission, if not by law, an important duty to discharge towards the

State in the business of educating the State's sons, he put it as a fair claim on the part of the State that the University should admit to her teaching those who were destined to serve the State hereafter, though they might not be members of the Church of England; that this was no more than a fair claim, to which the University should accede so soon as, but no sooner than, she was assured that in so acceding, she did not imperil the teaching of the doctrines of the Church. With regard to private halls, his noble Friend was mistaken as to the effect of the measure. His noble Friend said that this provision offered to men who seceded from the Church of England, and joined the Church of Rome, the opportunity of establishing themselves in the University, to carry on the teaching of youth there in such a manner as would answer their purpose. But his noble Friend would see that this possibility had been provided against, for in the very first line of the clause alluded to it was required that any person applying for a licence must, as a master of arts, be a member of a Convocation. There was a test required from members of Convocation. No person could be a Roman Catholic and a member of Convocation. What, then, became of his noble Friend's allegation? It fell to the ground. With regard to the clause affecting fellowships and scholarships connected with public schools, it was probable that he should, on the part of the Government, have to propose an Amendment, but he was not at present prepared to state the terms of it.

On Question, *agreed to*; Bill read 2<sup>d</sup> accordingly; and *committed* to a Committee of the whole House *To-morrow*.

House adjourned till To-morrow.

## HOUSE OF COMMONS,

*Thursday, July 6, 1854.*

MINUTES.] PUBLIC BILLS.—1<sup>o</sup> Jury Trial (Scotland); Standard of Gold and Silver Wares; Friendly Societies (No. 2); Criminal Justice; Joint Stock Banks (Scotland); Cinque Ports; Incumbered Estates (West Indies).  
2<sup>o</sup> Savings Banks; Registration of Bills of Sale (Ireland).

## CHURCH BUILDING ACTS AMENDMENT (No. 2) BILL.

Order for Second Reading read.

SIR JOHN PAKINGTON having *presented* a petition from forty-one incumbents in the City of London, in favour of this Bill, said he should now move that it

should be read a second time. As several hon. Members had signified their intention to oppose this Bill, and an hon. and learned Gentleman opposite (Mr. R. Phillimore) had given notice of an Amendment, he should not now occupy the time of the House, but would wait until he had heard the objections to the Bill, merely stating at present the grounds on which the Bill rested. Those grounds were, that in the City of London there was an amount of church accommodation much greater than was required by the wants of the population; while in other parts of the metropolis just the opposite was the case. This Bill proposed to make the City of London contribute to the relief of the spiritual destitution of the neighbourhood, by providing that superfluous churches might be pulled down, the sites and materials sold, and the money realised applied to the building of churches in other districts. These provisions had been sanctioned by the Archbishop of Canterbury, and by the bishop of the diocese, the Bishop of London; and he had just presented a petition in their favour from forty-one of the City clergy. They were not new provisions, but mainly an extension of a principle which had already been put in practice on many occasions for secular purposes.

Motion made, and Question proposed, "That the Bill be now read a second time."

MR. R. PHILLIMORE said, that an unfair and dishonest attempt had been made to prejudice the House against the opposition to this measure, by representing that it proceeded only from a particular party in the Church. He observed that one of the first communications he had received in writing against the measure was from a Dissenter, and that one of its earliest opponents was Mr. Hartwell Horne, a gentleman well known for his piety and learning, but certainly not attached to any extreme views of church government, doctrine, or discipline. He (Mr. Phillimore) admitted that the Bill came down to the House with great recommendations. So far as the character and authority of the promoters of it were concerned, he had no pretensions to compete with his right hon. Friend the Member for Droitwich, in ability, station, and influence in the House; who again had received the Bill from a right rev. Prelate, to whose untiring zeal, great energy, sincere piety, and munificent charity, he bore a willing and honest testimony. Nevertheless, the Bishop of

London was not without infirmities, and, with all reverence be it spoken, this measure bore the impress of them. The end was unquestionably excellent. The means were most objectionable. The evil sought to be redressed and proposed by him was terrible; and it pressed so much upon the Bishop's mind, that he had not examined with sufficient calmness or care the remedy which he proposed to apply. Moreover, if the principle of the Bill were a good one, it ought to be extended to all the country, and not to particular towns; but if, on the contrary, it were a bad one, it ought not to be put in practice anywhere. He should contend, first, that there was no evidence before the House that the alleged desertion of the City parishes by the inhabitants did actually exist; secondly, that, admitting the evil of spiritual destitution in other parts of the diocese, the remedy was fraught with mischief in its principle and in its consequences. At the outset he wished to state what he did not contend for—he did not contend that under no imaginable circumstances could a church be removed, or a consecrated burial-ground be applied to secular purposes. He did not contend against the measure principally or especially upon what might be called æsthetic considerations. What he did contend was, that the sanctity of consecrated ground was the rule, and the desecration of it the rare exception, justifiable only by invincible necessity, the burden of proving which lay upon those who promoted this measure. Now, the promoters of this Bill said that the churches in the metropolis were almost without parishioners, but there was no averment of depopulation in the preamble of the Bill; he would admit that in many there might be a very scanty attendance; but what were the causes? It had happened in the City of London, undoubtedly, that a great social change had taken place. The rich had removed their residences to the suburbs, retaining only their counting-houses and places of business in the City, but he denied that it was any reason, because the rich man had left the City, he should take the church of the poor man away with him. He said that the obligations of the rich man followed him, and it was his duty to dedicate, as his forefathers had done, a portion of his wealth for the erection of a new church in the place where he had fixed his residence. There was no evidence to show that the poor had migrated with the rich. He had admitted that

there might be a scanty attendance in many of the churches, but if in coexistence with that fact it was also found that many of the clergy were not resident in their parishes, that the poor of the parish were not visited, and that there was no proper accommodation provided for them in these churches, they ought not to spring hastily to the conclusion that, because these churches were not properly attended, therefore there were no congregations left for them in the City, and that they ought, therefore, to be removed. He held in his hand a letter from one of the City clergy, the Rev. M. Gibbs, who said:—

“The doors of my pews have a small handle inside, and are generally opened by the pew-opener with a key, and to a stranger would give the impression of their being locked. This has given rise to the erroneous remarks on the subject; but these, however, though not quite correct in point of fact, seem to me to have a good deal of truth in them, and our City churches are, as there represented, models of exclusiveness. A ‘Pew Amendment Bill’ is very much needed for us.”

“Most of the pews in my church are allotted to parishioners, and when they are not present strangers are put in them.

“But I agree with the opinion that the pews in the City churches are hostile to the attendance of the working classes. The free seats and pews are in striking contrast one to the other.

“The seats are allotted only to rate-payers; all others, therefore, must feel that they have no seat in our parish church; where seats are not hired, except free seats, and many are above occupying them.”

He would cite another authority to the House—it was from a little work, with the authors of which he differed materially upon all questions of church government, but the accuracy of the facts stated by them he had no reason to question—they had visited the poor in the places about which they spoke, and they gave evidence to which the House ought to listen, especially in the absence of any contrary testimony. Mr. Phillimore here read:—

“THE RELIGIOUS STATE OF ‘THE CITY WITHIN THE WALLS.’

“We might suppose, when we hear that in the city of Rome every thirtieth person devotes the entire time to the interests of religion, the state of religion in that city would be more favourable than in any other town in Europe; but such is by no means the case. Where the ministers of religion are Protestants, the expectation is still more natural. But even here this is not precisely the case; and there are many parts of the metropolis in which the state of religion is far higher than in the small parishes of the City within the walls, although their official staff of teachers is very—very far less. We write, however, we would wish to observe, chiefly of the poor; and we write without desiring to cast

Mr. R. Phillimore

blame. The facts, indeed do show blame; but our object in stating the facts is not to be accusers of others; it is only to make manifest the great call that there is for the efforts of the Mission in this wealthy domain. It is also to be remembered that in a large number of the parishes there is no resident clergyman, and the people do not know where to find a minister when they want one, most of the City rectors living at some distance away.

"Practically, the ordained agency which so largely exists in 'the small parishes of the City Within the Walls,' most certainly does not reach the homes of the poor. It admits, of course, of many and honourable exceptions, which deserve to be acknowledged with all praise. But these are the exceptions; and we have arrived at the conclusion that, writing generally, no part of the metropolis is less visited by the ministers of religion than 'the City,' notwithstanding the smallness of the parishes. We are bound to state the fact, but we make no comment upon it. Many persons were found, in our late survey, who had lived a long period of years in a small City parish, and had never seen a minister within their doors. And others, who had before lived in large parishes, expressed surprise that they should be so much more neglected in the small parish than in the large one. The testimony is so general that there can be no doubt of the fact, painful as it is. We give a few extracts, purposely concealing the name of the parish, because our object is not to give offence:—1. 'The only parties who visit regularly from house to house in this ward are ladies, who come round every week with tracts.' 2. 'There is no other religious visitation from house to house in this ward, but by the missionary, although the clergy come in cases of sickness, when they are sent for.' 3. 'Small as is this ward, there is no Christian visitor in it, so far as I could learn, nor are the poor visited by the parish minister. Many of the poor are without the Word of God.' 4. 'There is nothing like regular visitation in this ward, although so small. In — Lane, there are about fifty visitable families; these are very accessible, every door being open. All took tracts, thanked me for my visit, and said they would be most thankful to have a missionary. Several asked me in, and handed me a chair. I might have stayed with nearly every family here an hour, expounding the Scriptures. I found here adults also who could not read. But I had no sooner left a tract than I heard the daughter read it aloud as I was departing, to her mother. Visitation appeared quite a new thing to the people. Some thought I had come begging, and others that I had come to sell tracts.' 5. 'This ward appears to be most deplorably neglected. The universal testimony of the people was that they were never visited, although the parishes are so very small. In one case I found a young woman suffering from illness. She requested that I would read and pray with her. It would have rejoiced any subscriber to our society to behold her joy when I told her that a missionary might possibly be appointed to visit in that part. I never experienced so eager a desire for tracts. On giving to one family it was made known to others quickly, and I had them following me to ask for a like favour.' 6. 'With a large number of the families here there is no regular visitation, except by a few voluntary tract distributors from — Chapel. In — Street, I met with a poor

afflicted woman, who had recently lost her sight. She welcomed me, as did her daughter. I had some talk with her on the great salvation. She said, "No one came to visit her, not even a tract distributor called; but when she resided in another part of London she received missionary visits. She now needed them more than then, but she was neglected." On asking another woman whether she was visited, she replied, "No, indeed; I have been here a year now, and never had a visit from any one. I consider the poor are quite neglected in the City. It was not so in Lambeth, where I lived before. The spiritual wants of the poor there are much better looked after. In our large parish church, in the summer, there are not more than thirty people. There is no one to stir up the people to come." I met one day with some ladies who were tract distributors. Finding who I was, they said, "There is great ignorance and formality in the City. We know a woman round the corner who has frequently gone from minding her fruit-stall on the Sabbath to take the Sacrament, saying, 'I must go, or else I shall not get the bread.' You will be sure to find the widows and old ladies going to church at this time of the year, but after Christmas you will find them all at home."

"That these extracts are truthful is evident by the destitution of the Scriptures among the poor which prevails, even in these very small parishes, in many of which there are not more than from twenty to fifty poor families, and in some not even so many. Of the 3,999 families, 427 were found to have no Bible! These are all being immediately supplied from the late magnificent gift of the British and Foreign Bible Society. The following is a list of the wards, and their destitution:—Aldgate, there were 123 families without Scriptures; Bishopsgate Within, 22; Bread Street, 30; Broad Street, 30; Castle Baynard, 70; Coleman Street, 20; Dowgate, 1; Farringdon Within, 21; Langbourne, 2; Lime Street, 9; Queenhithe, 99:—427.

"These 427 families are, probably, 1,600 persons out of 54,702 without the Bible in the City Within the Walls. The British and Foreign Bible Society's house stands partly in the ward of Castle Baynard, and partly in the ward of Farringdon Within. It is an illustration of the condition of home, that while the whole world is being supplied with the Word of Life from that depot, there were 91 families in the wards in which the depot exists, who were destitute of the treasure. They are all now, however, thanks to that honoured society, being supplied.

#### "THE RELIGIOUS STATE OF 'THE CITY WITHOUT THE WALLS.'"

"But it is in the wards of the City Without the Walls that there is the most extensive need of missionary labour. Its parishes and the wards are much larger, and the statistics of irreligion are larger. This so far shows that the large body of the clergy in the City Within the Walls has not been altogether without its advantages. There are 9,181 visitable families in the five large wards without the walls; and the families found without the Scriptures in them were, in—Aldersgate Without, 6; Bishopsgate Without, 224; Cripplegate Without, 369; Farringdon Without, 648; Portsoken, 619:—1,866.

"These also will be immediately supplied with the Sacred Volume. It will be observed that

there are more than one family in every five without a Bible in this part of the City. How fearful a fact, considering the central situation of the City, its large amount of wealth, and the great numbers of Christian persons who live within its boundaries, or carry on their trade there. Surely it is highly discreditable to such a portion of the metropolis of a Christian land. In the entire City there are 2,293 families without the Scriptures, or very nearly 10,000 individuals."

On the 9th June he (Mr. Phillimore) had moved for returns relating to the number of churches, of resident and non-resident incumbents, residences, accommodation, and free sittings, services, and average attendance, &c., in the City of London.

"Address for, 'Return, in a tabular form, from the churchwardens of the City of London, of the names of the churches in the City of London of which they are churchwardens; the names and residences of the clergy of the parishes of which they are churchwardens, specifying whether the clergymen reside in their parishes or in the City of London, or elsewhere, and whether there be a residence provided for them, and, if so, whether any portion of it be let, and for what sum; the amount of each clergyman's income, including fees, taking the average of the years 1851, 1852, and 1853, exclusive of allowance for house-rent, and whether any and what allowance be made to him for house-rent; the accommodation in each church, and the number of free sittings allotted to the poor; the average attendance, including children, taking the year 1853; the average number of communicants in 1853; what Sunday and week-day services there were in each church in January, 1854, and whether performed by incumbent or curate; what fees were received for baptisms, churchings, and marriages, in January, 1854; the number of births and baptisms in each parish in 1853.'"

He complained that, before this return could be made, the House should be called upon to legislate upon this measure. He had received a letter from an incumbent at Norwich, one of the cities to which this Bill applied, which contained a similar state of facts accounting for the non-attendance of the poor. He said, then, that, before you proceed with the extreme measure of pulling down these churches, you should try what might be done by a reform of these abuses—you should make your services attractive and frequent—your clergy at once resident and missionary—your seats open, free, and accessible to the poor—you should drive away your purple, pursy, pampered beadle—you should make your church what it ought to be, the poor man's home, a place in which social distinctions, however necessary without those walls, were to be forgotten within them—in which the poor and rich were to be reminded of only one distinction, the distinction of greater obe-

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dience to the will of their one Divine Master. He said, try this reform first, whereas you were doing the very reverse. The inhabitants remained—the class was changed—you kept up the aristocratic interior, the lofty and poor-repelling pews, and then proposed to pull down the churches because the poor did not frequent them. He said, the poor should be heard, at least before they did this act. And here he must remind this House that it was an essential principle of this Bill that the parishioners were not to be heard, were to have no voice in the decision as to the pulling down of their parish church. It had been distinctly stated in the House of Lords, that if this ancient and just principle were recognised, the promoters of the Bill would abandon it, and this notable reason was alleged, that the parishioners were interested parties, and would be sure to object to the Bill. One word more before he passed from this branch of the subject. He had in his hand a letter written by one who had done duty for the incumbent of a City parish, in which he said that at one church the afternoon service was on one occasion performed by locking the door and ringing the bell; while at another church, at which his brother preached, the sexton once said, "There are only ten old women waiting for the sacrament; I suppose, Sir, you won't have any." Before passing such a Bill as this, the House ought to take evidence on these points. He passed on to another part of the Bill. By the tenth clause the parishioners, who were to express no opinion as to whether their church should be pulled down, would have power to sell the plate and furniture of the holy communion to any tavern in London. He objected to the Bill, too, because it removed the restrictions on the holding of pluralities, and, also, because it would extend the borders of simoniacal transactions. He commented on the clauses which gave power to transfer the endowments, and asked whether it could be expected that the inhabitants in the City would continue to pay tithes, or minister's money, or church rates, to incumbents in the suburbs? The provision, however, which had justly given the greatest offence to men of all sects and parties, was that which referred to the sale of burial-grounds. The end of the Bill could not be obtained without a wholesale excavation of the remains of the dead. The ground, it was said, was very valuable, and it was to be sold for the sites of taverns,

shops, and for other commercial purposes, as a resource for getting money, and not for any great objects of public convenience or public health, as had been the case of the Sewers Acts which had been cited as precedents. He said, though aware that he exposed himself to the charge of morbid sentimentality, that it was a shocking thing that power should be given in the way proposed, to disturb the remains of men's fathers and forefathers; he said, that the feelings which revolted against such an act were implanted for the wisest purposes by the Creator in the hearts of his creatures; that the respect for the dead tended greatly to the civilisation of the living, that to trample on those feelings would barbarise and heathenise men to a greater degree than any pecuniary advantage would be able to compensate for; money was bought at too dear a price by such a violation of the deepest feelings of our common nature—it would rebound, not to the advantage, but to the injury of the Church of England—it was not a case of invincible necessity, touching public convenience or public health, but to obtain money, however excellent the destination of it when obtained, was the end of all this unhallowed, unconstitutional, and uneccelesiastical machinery.

"O cives, cives, querenda pecunia primum!"

That was the satire of a Pagan philosopher. It was, he must say, though admitting the good use to be made of the money when obtained, nevertheless a bad pastoral from a bishop to his people; against such a sentiment he, for one, must ever continue to protest. It was an unworthy principle, an ignoble sentiment, and he hoped the House would stamp it with its strongest reprobation. An anonymous writer, in adverting to this subject, observed that it was a common answer, when attention was called to the slight hold which the Church had upon the people, to say that it was owing to the insufficiency of the staff of the clergy; that if there were five clergymen where at present there was only one, the state of things would be greatly different. Now, in the City of London there was what was said to be wanted throughout the country—namely, an efficient staff of clergymen—but they were looked upon as useless, and were allowed to spend their time in idleness away from their parishes, and it was therefore concluded that the churches themselves were as useless as the incumbents. He hoped before the

House conceded these extraordinary and unusual powers it would consider what powers were at present possessed. By the existing laws of the land a parish church could be removed from any one part of the parish to another without a new Act of Parliament being required, but a law was now asked for to remove a parish church out of the parish altogether, and to place it in another part of the diocese. But why should the removal be confined to the diocese, and not be extended to the whole of England, or even to New Zealand or Canada, or Edinburgh? The Bill destroyed the principle that the parish church should belong to the parish, and, if once adopted, it was impossible to say where it would end. He could not believe that the wealthier population and the rich merchants of London would refuse to provide for the spiritual wants of the suburban districts; and they were indebted for the churches in the City to that feeling of the Greshams and great City merchants, that warned them they could not expect to enjoy their affluence unless they consecrated a portion of it to the service of God and the good of their poorer fellow citizens. But be this as it might, he said that it was not a justifiable proceeding to seek, as this measure did, to relieve those whose duty it was to provide spiritual accommodation for destitute districts, by destroying the churches of other parishes which the piety and munificence of their own wealthy inhabitants in bygone times had built for the benefit of the poor. But if they adopted the principle of this Bill, where were they to stop? They said that they wanted to raise money to relieve the wants of suburban parishes—that they must have

"Rem—quocunque modo rem."

Well, if this doctrine was thus to be laid down—if law, and feeling, and usage, were to be trampled upon to establish it, he must say, though he held the episcopal order in the highest respect—though he was not a person to join in any clamour against the possessions which the law had given them, yet he must say that the suburban palaces of bishops would form as righteous a fund for relieving the spiritual destitution of suburban districts as the sale of metropolitan churches and churchyards. He said that this project would dry up the fountains of private charity which had flowed so largely of late years, and to which the Bishop of London himself had nobly contributed; these waters had

flowed ever since the Parliamentary grant, which in the present religious state of the country he hoped would not be renewed, had ceased. He referred to the example of Mr. Hubbard, the Governor of the Bank. He had been abused in the newspapers for presiding over that meeting in the City, from which he (Mr. Phillimore) had presented a petition, this day. It was said that he lived in the suburbs, and had nothing to do with the church accommodation of the City; but he was now building and endowing a church in the suburban district in which he lived, imitating in his conduct the noble example of the ancient City merchants, who almost invariably hallowed their wealth by dedicating a portion of it to the House of God. Mr. Hubbard, indeed, made one condition; it was that all the seats in his church should be free. He was doing this good work anonymously; he was one of those

"Do good by stealth, and blush to find it fame."

He (Mr. Phillimore) hoped Mr. Hubbard would forgive him for having discovered and disclosed his benefaction. Mr. Phillimore then commented, with some severity, upon the non-resident London clergy, whom he thought, from a pamphlet which he had seen, appeared to think that, through the agency of this Bill, they might obtain livings of increased value in a fashionable circle as a compensation for the unfashionable incumbencies which they had deserted in the City. He (Mr. Phillimore) would say nothing on the sanitary part of the question—whether it was or was not desirable that the remaining open spaces in the City of London should be built upon. He would say nothing of the machinery by which the Bill was to be carried into effect, but he had certainly no great love for the Church Building Commissioners; and he wished to point out that, notwithstanding their life was to be very brief, they were the principal parties to whom the working of the machinery of the Bill was to be intrusted. He said it would have been a very different thing if a Bill had been produced—after evidence had been taken—after a case of invincible necessity had been made out—after the parishioners had been consulted, in which a particular church had been mentioned in the schedule, in which due regard had been had for the holy communion plate and the burial-ground. He would leave to other hon. Members the task of defending the

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churches of those cities mentioned in the schedule; but he must call the attention of the House to the legitimate consequences of the precedent which would be established if this measure passed into a law. The most ancient churches in the country might be pulled down whenever it could be shown that a pecuniary advantage would result therefrom, which might relieve the spiritual necessities of other places. He did not see the noble Lord the Member for Tiverton in his place, but the churches of Rumsey, of Malmesbury, of Tewkesbury, would be victims to the principle of the Bill. Nay, there was no reason why the Cathedral of St. Paul's itself should not be pulled down and sold—the site would be extremely valuable—for what it would fetch; and as to any consideration that the bones of Nelson and Wellington were deposited there, that would, no doubt, be denounced by the newspapers as a piece of foolish sentimentalism. This was the extent to which the measure went, and it would be at once seen how dangerous it was to attempt to attain an end without considering the principle involved in its attainment. He hoped he had advanced no extravagant opinions in the observations which he had addressed to the House, and he had carefully abstained from any undue sentimentalism with respect to historical associations or other questions of that nature. He opposed the Bill because he believed it to be one to relieve the rich at the expense of the poor, because it wantonly violated some of the best feelings of our common nature, because it dealt an unnecessary blow at the parochial system; and, above all, because it severed the laity from their proper share in the management of the concerns of their various parishes, and by so doing it dealt a heavier blow at the Church Establishment than could be compensated for by any emolument which could be derived from the ingenious device of turning the burial-grounds of the metropolis into sites for shops. It was, therefore, with confidence that he called upon hon. Members, belonging to whatever political or ecclesiastical party they might, to join with him in rejecting a measure which was at once harsh, cruel, offensive, arbitrary, and unconstitutional in principle. He begged to move that the Bill be read a second time that day six months.

Mr. HADFIELD said, he would beg to second the Amendment because he objected to the Bill on general and public

grounds. If it passed, it would be a dead letter. It related to the churches in no less than eight different cities, leaving the bishop the power to give an order to the Church Commissioners to deal with these churches, to sell them, and apply the money for the purposes mentioned in the Bill. Now the power of these Commissioners, limited to two years, might by the Act be concluded to-morrow. How was it possible the Commissioners could therefore exercise this power? Besides, the Bill would scarcely get into action ere their powers would expire. The powers of the Ecclesiastical Commissioners—which were not only extensive, but most injurious—had been condemned from all parts of the country, and he had been requested to use his influence to get those powers rescinded, and to call for returns to show the inconvenience, expense, and delay, resulting from their exercise, and especially to show the hindrances which they threw in the way of building new churches. What was required was a consolidation of all the Acts relating to the Ecclesiastical Commissioners, which, affecting though they did the interest of the Church, no one could understand. He thought the time had come when the influence of those Commissioners should cease for ever, and he altogether objected to further influence being placed in their hands. Although differing strongly from the Established Church in her doctrine and discipline, he was desirous to remove from her all weight and incumbrances impeding her free action, and retarding her in running a successful race with the Dissenting bodies in the great work of evangelisation. He would also oppose this Bill, because he wished to preserve the noble monuments of Sir Christopher Wren's genius from the grasp and cupidity of the prelates of the Established Church.

Amendment proposed, to leave out the word "now," and at the end of the Question to add the words, "upon this day three months."

SIR JOHN PAKINGTON said, he must readily acknowledge the great ability with which the hon. and learned Gentleman the Member for Tavistock had opposed the Bill. In doing so he had touched upon some of the deepest feelings of our nature, and had introduced opinions which they all held in common in reference to a matter upon which he was sure they were all equally anxious to arrive at a right and proper conclusion. In bring-

ing forward this measure, he (Sir J. Pakington) felt he had undertaken no slight responsibility, but he thought he should be able to show that the hon. and learned Gentleman, however unintentionally, had in many respects misrepresented the contents of the Bill, and that he had led the House away from those points upon which they had really to decide, by dwelling upon matters which, however necessary for consideration in Committee, ought to have no influence, and had no proper connection with that decision upon the principle of the Bill which they were now called upon to give. They were about to consider a most important proposition—namely, how they could best provide for that fearful amount of spiritual destitution which was to be found in the metropolitan districts around them. He agreed with the hon. and learned Gentleman when he said they ought to approach a subject of this magnitude in a calm and dispassionate spirit; but he was sorry to see the hon. and learned Gentleman, after having given expression to that opinion, led away by his zeal against the Bill to indulge in an attack upon the clergy of London, which he (Sir J. Pakington) thought was misplaced and most unjust. The hon. and learned Gentleman attacked the clergy of the City of London for being absentees, and for living, as he called it, in the suburbs, and out of the reach of their parishioners. In some degree, though not altogether, nor indeed to any great extent, this was true, because the clergy had no houses in the City to live in, and the object of the Bill was to attend, not only to the spiritual destitution of the metropolitan districts, but to provide parsonage houses in the City, so that a clergyman might live near his cure. Another portion of the hon. and learned Gentleman's attack upon the clergy was still more offensive, and he thought the hon. and learned Gentleman would regret having used the words he did. The House would remember that he (Sir J. Pakington) had that day presented a petition from forty-one incumbents of the City, praying for this Bill, on account of the spiritual benefits it would confer. The hon. and learned Gentleman had alluded to this important fact, and then he proceeded to state that the petitioners prayed for the Bill in order that they might be enabled to put money into their pockets. This was a most harsh, ungenerous, and cruel thing to say, because it was impossible that the

clergy could put money into their pockets. Their existing rights only were preserved to them; and though, perhaps, at some distant period some one or two clergymen might find their income increased by the union of parishes, yet, as a general rule, the assertion was utterly groundless. And, while deploring the injustice of the hon. and learned Gentleman's assertions, he had been no less surprised at the rashness of the opinion he had expressed that there was no evidence of a superfluity of church accommodation in the City, or, at all events, that the facts to prove a superfluity were not given. Now, it was notorious that in the City of London there was a great superfluity of church accommodation, while in the adjacent districts there was a want of it, and the object of the Bill was to remove the superfluity, and provide for the want. In the time of Charles II., before the great fire of London, there were no less than ninety-two churches in the limited district with which the Bill proposed to deal. Eighty-six of those churches were either destroyed or greatly injured by the fire, and at the rebuilding of the city the rebuilding of the churches became necessary. By the Act known as "the Fire Act" of Charles II. it was enacted that, in place of the eighty-six churches destroyed, thirty-nine should be erected, but, owing to some cause or other, it was found difficult to confine the number to thirty-nine, and fifty-one were, therefore, rebuilt. The result of the fire of London was this, that in no less than thirty-four instances the amalgamation of parishes sought to be effected by this Bill was carried into operation. The hon. and learned Gentleman had doubted that there had been any falling-off in the population of the City, and said he should like to know what the number of baptisms were in 1853. He (Sir J. Pakington) would take six parishes, and would show the actual diminution of the population since the fire of London. In the parish of St. Michael, Wood Street, in 1693, there were fifty baptisms and thirty-four burials; in 1853 there were six baptisms and two burials; in the parish of St. Catherine Cree, the baptisms in 1693 were sixty-one and the burials sixty-six; in 1853 there were thirteen baptisms and nine burials; in the parish of St. Mary Woolnoth, in 1693, the baptisms were thirty-two and the burials thirty-six; in 1853 the baptisms were four and there were no burials; in St. Vedast, in 1693, there were thirty-

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eight baptisms and sixty-three burials; in 1853 there were four baptisms and one burial; in St. Michael, Cornhill, in 1693, nineteen baptisms and twenty-five burials; in 1853, eight baptisms and two burials; in Allhallows Great and Less, in 1693, fifty-one baptisms and sixty-seven burials; in 1853, seventeen baptisms and no burial. The aggregate gave, for the six parishes, a diminution in baptisms from 251 to fifty-two, and in burials from 291 to fourteen. With regard to the number of houses, the diminution during the last twenty-five years, from 1829 to 1853, in nine parishes, was as follows:—In 1829 there were 645 houses, in 1853 only 481; twenty-two had been removed entirely, and 142 had been converted into warehouses. It was also conclusively proved by figures that the numbers who attended divine worship in the City churches amounted to a mere nothing. Indeed, the average attendance in the churches proposed to be removed was only thirty-three. The population in many of the parishes which the Bill would affect, as compared with the population of the adjacent districts, was ridiculous. He found, on looking through a return, that in the parish of St. Michael, Wood Street, the present population was 596; in St. Ann and St. Agnes, 696; St. Matthew, Friday Street, 397; St. James, Garlick Hill, 520; and in St. Stephen's, Walbrook, 467. With these facts staring them in the face, it was absurd to talk of pews and of the poor being shut out for want of accommodation. He thought he had sufficiently proved that the present church accommodation provided in the City of London was superfluous, and he would now turn to the question whether or not there was a deficiency of accommodation in other parts of the metropolis. From an advertisement published by the London Diocesan Church Building Society it appeared that the provision for public worship of all denominations of Christians throughout England and Wales was 57 per cent, but in the metropolitan parts of Middlesex and Surrey it was under 30 per cent. The provision in churches throughout England and Wales was 29 per cent, but in the metropolitan parts of Middlesex it was 17·5, and in those of Surrey 17 per cent. In fact the whole number of persons for whom spiritual provision of any kind was made by the Church of England or by Christians of other denominations was—in Shoreditch, 19,614 out of 109,257; in Whitechapel, 19,903 out of 79,759; in

Marylebone, 39,565 out of 157,696; and in St. Pancras, 51,275 out of 166,956. He thought the figures he had now laid before the House were sufficient to establish his position that the church accommodation in the City was superfluous, and that in the immediate neighbourhoods there was a great want of it. It was urged that in those places where church accommodation was required it must be furnished by the exertions of the parishioners. In many parishes the cause of the poor had not been pleaded in vain. In the parish of Bethnal Green alone, during the last twelve years, more than 106,000*l.* had been collected for the purpose of providing additional church accommodation. The population of this parish was increasing most rapidly, and called loudly for every provision that could be made for meeting the spiritual destitution of the poor. In 1840 the number of baptisms in the parish of Bethnal Green in two churches was 768, and the number of marriages 270; in 1850 there were twelve churches, and the number of baptisms was 2,030, and the marriages 1,028. From the Report of the Subdivision of Parishes Commissioners it appeared that in the parish of St. George's in the East there were 38,000 inhabitants and five churches; in Whitechapel, 109,000 inhabitants and eight churches; in Limehouse, 22,000 inhabitants and one church; in West Hackney, 18,000 inhabitants and one church; in St. Paul's, Deptford, 24,000 inhabitants and one church. In Marylebone five churches were required, in St. Pancras seven, and in Stepney four. This showed how necessary it was to afford every available means of meeting the spiritual destitution that existed. He now came to the question whether the means proposed by the Bill were legitimate, or whether they were open to the objection which his hon. and learned Friend had urged against them. He was glad that the hon. and learned Gentleman did not dwell upon the opinion entertained by some people, that when once a building was consecrated to divine worship nothing could justify the devotion of that building to any other purpose. Such had not been the opinion of the country; if it had been, he should certainly have hesitated in being the first to infringe it. The churches of St. Benet Fink and of St. Bartholomew were taken down at the rebuilding of the Royal Exchange, and both sites were used for City

improvements. The Sun Fire Office now stood upon the site of St. Bartholomew. St. Michael's, Crooked Lane, was taken down when the new London Bridge was built, and the site thrown into improvements. St. Benet's, Gracechurch Street, was about to be removed to make way for City improvements; St. Christopher-le-Stocks was given to the Bank of England, and now formed part of it; St. Katharine-by-the-Tower was sold under the powers of an Act 6 Geo. IV., and the site and burial-ground were used in the construction of docks; the burial-grounds of St. Martin Ongars and St. Botolph's, Billingsgate, were taken possession of and used for the London Bridge improvements; St. Ewen, in Newgate Market, and St. Nicholas, in the Shambles, were taken down, and the parishes formed into Christ Church, Newgate Street; and in the Act for building the new Post Office power was given to use the site of the burial-ground of St. Leonard's. The Post Office now stood upon it, and there was a record kept in the parish showing that the corpses were solemnly removed, and that the remains without coffins were placed in new coffins. In the City of London Sewers Act a provision was made which empowered the Commissioners to take burial-grounds for the purpose of effecting public improvements, and the hospital of the University of London was built upon the site of a disused burial-ground. In these cases the burial-grounds were taken for the improvement of the health of the people, and would it be contended that their spiritual welfare was not as important an object? It was said that churches would be pulled down and graveyards appropriated without the consent of the parishioners, but, if hon. Members would refer to the Bill, they would find that provision was made for due publicity to be given of the intention to unite parishes, and that the parishioners would have full liberty to express their opinion. It appeared to him, from the observations made by the hon. and learned Member for Tavistock, that the appropriation of burial-grounds for a dock, bank, bridge, or post office, or for the formation of common sewers, was to be allowed; but it was to be refused when the purpose for which it was required was to provide for the spiritual instruction of the poor. He trusted he had convinced the House that there was a pressing necessity for the adoption of some such measure

as that which he proposed, and he hoped that they would not feel disposed to reject the Bill.

MR. MOFFATT said, that the statistics which had been read by the right hon. Baronet (Sir J. Pakington) were contained in a pamphlet, by the Rev. Charles Hume, a non-resident clergyman, in support of a proposition which would have the effect of raising his income from 300*l.* to 600*l.* a year. He (Mr. Moffatt) denied that the clergy of the City of London were in favour of the Bill, and that was shown by the result of a meeting of that body at Sion College. He knew that the inhabitants of the City objected to this Bill because it was so indefinite, and vested the freehold of every site and burial-ground in the Commissioners to deal with as they thought fit, without the intervention of the parishioners; and no one was to be responsible for the vast sum which this Bill would place in the hands of the Church Building Commissioners, a sum of about 500,000*l.* or more. The working Commissioners, although they were a numerous body, resolved themselves practically into the Earl of Harrowby, and Mr. George Jelf, the secretary, and he thought such a responsibility ought not to be practically delivered to those gentlemen. If this Bill passed, it would have the effect of stopping the large donations given for building churches in the suburbs. The citizens of London had no intention of opposing a fair inquiry into the matter, and there would not be any objection to some modification of the proposed plan, or to the removal of some of the churches which were certainly useless.

MR. CHRISTOPHER said, he was opposed to the measure, but he put his objection to the Bill on higher grounds than had been urged by the hon. Member for Ashburton (Mr. Moffatt); for he believed that it was calculated to subvert the whole parochial system of the country. If churches were unnecessary in one place and required for another, bring in a Bill specifying those churches which were to be removed and those which were to be built. But the principle of this Bill, if carried to its full extent, would, as he had previously stated, entirely subvert the parochial system. Every parish was entitled to its church, and so long as a few persons went to the church, you had no right to deprive them of it, without their consent. The principle was as applicable to any part of

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the country as to the metropolis; and he was not prepared to sanction a principle which was confined to one part of the country. The particular churches to be removed ought to be specified, as they were in the cases to which his right hon. Friend (Sir J. Pakington) had referred, but as it stood there was nothing to prevent any churches in Lincolnshire being taken down and erected in Lancashire.

MR. SIDNEY HERBERT said, that in the observations which he should make to the House he should avoid going into those matters of detail which had been advanced against the Bill, and which were rather questions to be discussed in Committee. He thought the right hon. Baronet (Sir J. Pakington) had been perfectly successful in establishing the fact that in the City at the present moment, from a change of circumstances and from the course of trade, a state of things existed which was unparalleled in any other part of the country—namely, that there was an immense aggregate of churches to which there were not congregations, and even parishes in which there were scarcely any parishioners. He concurred with the hon. and learned Member for Tavistock (Mr. R. Phillimore) in condemning sinecure and non-resident clergymen, and he thought the right hon. Member for Droitwich had brought forward a means whereby non-resident and sinecure clergymen in the City of London might be got rid of. In the place of a church without a congregation and a non-resident clergyman, the right hon. Gentleman proposed to extend the blessings of the Gospel to those who were in the grossest ignorance, and to supply churches in which there should be congregations and where the clergy should be resident. The non-residence of the clergy was the natural result of a want of population. He believed the population of the City had rapidly decreased of late years, and, indeed, the right hon. Member for Droitwich had shown by statistics that year by year houses were being pulled down and converted into warehouses, containing not Christians and souls, but bales of cotton, sarsaparilla, and God knows what. There was no pretence that there would ever be a population in the City which would require the church accommodation at present provided, while outside the City walls there were parishes containing 18,000 and 20,000 inhabitants, and but a single church. To show the condi-

tion of the suburbs, he would only refer to what had already been done in the parish of Bethnal Green. A clergyman in that parish stated that when he first went there the great difficulty was to collect a congregation—there were plenty of parishioners but no congregation—and even when a congregation was collected a great difficulty was experienced in inducing them to behave in church with ordinary decency and decorum. They had never been to church before, and they therefore did not know what they were to do when they got there. During the service the whole place was filled with a buzz of conversation; in addition the congregation employed themselves in cracking nuts, and every day after the service was concluded, orange-peel and nut-shells were swept out by basketsful. After a few years this want of respect and decorum disappeared in proportion as the people became better instructed. The hon. and learned Gentleman had applied to this plan, as a term of reproach, the word “utilitarian.” Certainly he (Mr. Herbert) never before heard that word so misused as when it was applied to the spreading of the Gospel to the benighted population of our suburbs. His right hon. Friend opposite (Mr. Christopher) complained that the Bill did not specify all the churches which were proposed to be pulled down, and that it was not sufficiently extensive.

MR. CHRISTOPHER: I did not say that; but what I said was, that if the principle was good for one place it was good for another.

MR. SIDNEY HERBERT: Lincoln and several other places were included in the schedule to the Bill, and whether they ought to remain there or not was a fair question to be discussed in Committee, when the House would be enabled to have the opinion of many authorities to guide them upon the matter. In the City of London, however, the case was different, and every one must feel that that was a case in which the principle of the Bill could be adopted with eminent success. The hon. and learned Member for Tavistock asked why the revenues should be taken from the City churches for rectories and vicarages in the suburbs of the metropolis, and why the principle should not rather be acted upon of dealing with the greater magnates of the church and going to the episcopal and capitular property. That was what was being done every day. The incomes of the Bishops had already

been reduced, and would in some cases be still further reduced, so that there was no ground for taunting the promoters of the Bill in this respect. With regard to the churches themselves, one argument which had been adduced against their removal was their great architectural beauty. He confessed that in his mind the fact that a church was built by Sir Christopher Wren did not carry with it any great conviction that it was to be maintained by reason of its architectural beauty. He believed that Sir Christopher Wren had never built a theatre, but whatever talent he possessed for theatrical architecture he appeared to have bestowed upon his churches. He (Mr. S. Herbert) had himself visited one or two of the churches which the Bill would affect at the time service was being performed, and he found there were only the clergyman, the beadle, and ten or twelve, or thirteen persons, and for those ten or twelve persons you were to maintain empty churches and non-resident clergymen, while in the suburbs there were masses of people in a state of spiritual destitution. The hon. Gentleman behind him (Mr. Moffatt) said that if the sum of money proposed to be raised by means of the Bill was obtained, it would dry up the sources of church-building in the suburbs derived from the theological tendencies of different individuals. He (Mr. Herbert) did not think you would get 500,000*l.* from any one's theological tendencies; but it did not follow that the obtaining of this sum would have the effect stated by the hon. Gentleman, for it had been seen that in cases where sums had been granted for building churches, it had had the effect of drawing out larger contributions from individuals than would have been got in any other way; and, therefore, it was probable that the plan of this Bill would tend to increase private benevolence. He should lament to see this project at once crushed. There might or might not be too many powers given to some of the bodies constituted by the Bill, but that was a question of detail for the Committee; and what he desired to see was the affirmation of the principle, believing, as he did, that they would incur a heavy responsibility by refusing to adopt it. He most strongly urged the necessity of providing for the spiritual wants of the growing population of the country, and the increase of the working clergy, and as regarded the question of dealing with consecrated buildings he would beg to point out that the people were not

for the churches, but the churches for the people, and he would ask whether, if any of these churches were burnt down, would it be built up in the same place? He gave his hearty support to the Bill.

LORD ROBERT CECIL said, it appeared to him that the promoters of the Bill had entirely passed by the real principle involved, and had only dwelt upon collateral subjects. He did not deny that spiritual destitution existed in the suburbs, and the necessity of using every exertion to meet it. But he would remind the House that they had not examined into this question—that no Commission or Committee had inquired into it; and yet they were called upon to authorise the removal of a number of churches in the City without hearing one word of evidence upon the question. That seemed to him to be a perfectly unexampled system of legislation, and, for his own part, he could not consent to place so much power in the hands of the Ecclesiastical Commissioners. He thought it would be highly improper to place the rights of individuals who had not been heard in their defence in the hands of a Commission which at the end of two years would cease to exist. Such a course was one which the House had never pursued hitherto, and which they were not accustomed to pursue, even in the diversion of a road or the cutting of a canal. He should certainly oppose the second reading of the Bill.

MR. THOMSON HANKEY said, he must deny the assertion of the hon. Member for Ashburton (Mr. Moffatt) that the citizens of London were opposed to the principle of the Bill. He had lived amongst them for thirty years, and knew that, although they objected to some of its details, they did not, as a body, object to its principle. On the contrary, they viewed that principle with cordial favour, and were well aware that there was in the City a superfluity of church accommodation, which ought to be devoted to the purpose of supplying the deficiency which unhappily prevailed to so distressing an extent in the suburban districts. This was a sentiment which they would echo almost as one man.

MR. HENLEY said, he believed that in every one of the cases alluded to by the right hon. Baronet (Sir J. Pakington) the churches which were removed were removed under the authority of private Bills, in respect to which all persons who had objections to urge were fairly heard. Now, it

*S. Herbert*

was quite the reverse with the present Bill. No one was more disposed than himself to agree with the opinion which had been expressed, that a large amount of spiritual destitution existed in certain parts of the metropolis; but, when the question of a superfluity of church accommodation in the City was touched upon, the utmost case made out was, that there were certain parishes in which there were only 500 or 600 inhabitants. If the principle were adopted of removing the parish church from all parishes with a population of 500 or 600 inhabitants, how would it act in other parts of the kingdom, where there were many parishes of three and four miles in extent which only possessed a population averaging from 100 to 200 and 300 persons? If the argument were good for anything at all, it would be as applicable to the provincial districts as to the metropolis. Another ground of his opposition to the Bill was, that there was nothing contained in it which told him what churches it was proposed to deal with, and what was intended to be done with the money which would be raised. The right hon. Baronet also said that the consent of the parishioners would be necessary. The Bill only provided that the consent of the parishioners was necessary for the union of parishes, but certainly not for the pulling down of their churches. He objected to the Bill laying down a general principle. If they wanted to remove particular churches, they ought to introduce a private Bill for the purpose, in which case all persons who had an interest in the matter could be heard and the question fairly considered. If they could prove in such case that the removal of the churches was necessary, and that the parishioners were in favour of such a course, then there could be no objection to such a measure. He should vote against the second reading.

MR. MASTERMAN said, he entirely differed from the hon. Member for Peterborough (Mr. Thomson Hankey) as to the opinions of the citizens of London. He had been in communication with the authorities of the different localities on the subject, and he believed that the citizens generally were adverse to the principle of the Bill.

SIR JAMES DUKE said, that, from his knowledge of the citizens of London, he could confirm the statement of his hon. Friend and Colleague (Mr. Masterman). He should himself vote against the second reading of the Bill.

MR. T. DUNCOMBE said, that it was hardly necessary, after the statement made by two of the Members for the City of London, for him to say anything in opposition to this Bill, and he merely rose to state what he believed to be the opinions of a great portion of the citizens of London who were resident in Islington; they were decidedly opposed to this Bill. They considered it a disgrace to those who brought it on. It would be considered a scandal to the Parliament that passed it. About ten days or a fortnight ago, a Return was moved for by an hon. Gentleman who sat on the opposite side of the House, asking for a list of the churches intended to be pulled down under the operation of this Bill. No such return had been made. No authentic return on which the House could act would be made, but the supporters of this Bill ought, at all events, to give them some idea of the churches they intended to pull down. Under this Bill he had very little doubt that the Bishop of London would have the power to pull down St. Paul's, and the Archbishop of York to pull down York Minster. There was no great congregation; he believed they might count out the congregation at either of them any day. He believed that, with regard to many of these churches, it depended a great deal on the person who was in the pulpit as to whether a congregation would assemble, very much as it did on the individual who addressed that House as to the number of Members who would stay to hear him. He was not sure even if the right hon. Member who introduced this Bill were to get up and preach that even he would draw a congregation. He should like to see the experiment tried. But at all events he was satisfied if they would allow the citizens to elect their own pastors, and not have those that were imposed upon them by the Bishop of London, they would have good congregations in those at present deserted churches. As the right hon. Member for Oxfordshire (Mr. Henley) had properly stated, the churches that had been taken down in other instances had been taken down under local Acts. If they were not to have local Acts in reference to these churches, at all events let them have a schedule. Give them an idea of the churches on which the Bishop of London had fixed his eye; let them know who were the patrons, and who were the present incumbents. The right hon. Baronet (Sir J. Pakington) asked if it was intended to be argued that the health of the people is

of more consequence than their spiritual condition? He did not say it was, but he said they ought to have some regard for their feelings. Though he might be accused of what the right hon. Gentleman the Secretary at War called sentimentalism on this subject, he, nevertheless, should oppose this Bill, both now and hereafter, and he should oppose it on the same principle that he opposed a Bill in the early part of the Session, called the Stoke Newington Church Bill. The House most properly threw that Bill out without even a division on it. The parishioners were against the pulling down of their church, taking away the tombs, and desecrating the churchyard. Notwithstanding that decision the Bishop of London and certain parties brought in a Bill to remove the Church; that Bill, however, was thrown out on the second reading. The feeling, and he said it to their credit, of the greatest portion of the citizens of London was against the desecration of the dead. What had happened lately? What was called the New Bunhill Fields Burial-ground was closed, and it must be remembered that this burial-ground was unconsecrated. There appeared to have been a mortgage on it, and the mortgagee wanted to foreclose, and said the property should be used for building purposes. What was the consequence? The poor people who had buried their relatives there were much excited, and there was something like a riot for two or three nights. He put a question to the Secretary for the Home Department on the subject, and his answer was, that steps had been taken to prevent the removal of the bodies, that the police had been instructed to prevent any further disturbance, and that he had taken the opinion of the law officers of the Crown whether this burial-ground could be sold at all. There seemed to be, then, some doubt about it, but he believed the opinion was that it could not be sold; and these parties had not been able to sell the ground, but were precluded from doing so. Well, then, why was the Bishop of London to do that which the Dissenters were not allowed to do? Under this Bill the Bishop of London was to pull the churches down and sell the sites, and then this desecration would take place. It was the strong feeling on the part of the people of this country, their love for the memory of their relatives, that caused this great opposition to this Bill. The Bill had been smuggled through the House of Lords. There was no published debate upon it. It had been

two years before the House of Lords, but they were afraid to proceed with it. It did not apply only to the metropolis. There were seven other towns that would be affected by it. When this Bill got into Committee, if it ever did get there, and he hoped it would not, the right hon. Baronet would find such disclosures made with regard to the intentions of these parties that he would be obliged to give it up.

MR. DRUMMOND: I will ask the promoters of this Bill one question—if this is the way to treat consecrated ground, what is the use of the farce of consecration? And when they have answered that, I will ask another question—what is the use of a Bishop except to consecrate?

Question put. "That the word 'now' stand part of the Question."

The House divided:—Ayes 59; Noes 143; Majority 84.

Words added; Main Question, as amended, put and agreed to.

Bill put off for three months.

#### ENTRENCHMENT TOOLS FOR THE ARMY.

MR. HADFIELD said, he wished to ask the hon. Gentleman the Clerk of the Ordnance, whether his attention had been called to the complaint contained in the *Times* newspaper of the 10th day of June last (a letter from their correspondent at Scutari), to the following effect, namely—

"It may be as well to let the authorities know that the tools issued to the men are all but useless. The hatchets, bill hooks, and adzes, furnished to the men of the various regiments would be much more servicable if they would only cut, but they have yielding edges, which obstinately refuse to keep sharp or straight. The soldiers complain of them loudly, and it will not make these utensils one bit more useful to produce bushels of certificates or letters from generals, commissaries, or tool-makers, declaring that nothing could be better. Let them come and try to chop wood (to boil their cooking tins) with them, and the authorities will soon alter their opinions as to these Government supplies. No one who has not had practical experience of camp life, can imagine the annoyance caused by such a circumstance as this, or the real discomfort it originates, in carrying out the details of a life under canvas. In the same way that most indeatigable and valuable body of men, the sappers and miners, are impeded in their labours, nor only by the tools they have being frequently indifferent, but, what is worse, by the want of the implements which they ought to carry."

And whether any such complaint had reached the Board of Ordnance from the army authorities: and, if so, whether the

Mr. T. Duncombe

articles alluded to were manufactured or purchased at Sheffield, and by, and of whom; and, if not, whether the manufacturers at Sheffield, and all other places, were permitted to compete for Government orders in regard to quality and price, or to price only; or were prevented from doing so by any unsatisfactory mode of testing the quality?

MR. MONSELL: In answer to the question of the hon. Gentleman, I beg, in the first place, to put him out of all pain and apprehension on the subject, so far as regards the manufacturers of Sheffield. The articles referred to were neither manufactured nor purchased in the town of Sheffield, but I shall be able to show him that if they had been obtained there, they would have done no discredit to the manufacturers of that town. The statement in the paper to which the hon. Gentleman refers me is, first, that the hatchets, bill-hooks, and adzes furnished to the men of the various regiments in the East are of a bad quality; and, next, that the tools of the sappers and miners are bad, and there is not a sufficient supply. With regard to the second point, I have received a communication on the subject from Sir John Burgoyne. He says, that the commanding engineer in the East has not made any complaint about the quality of the entrenching tools sent out. As regards the quantity, it was sufficient for the operations at Gallipoli; though there was some apprehension, from the additional supply being detained at Malta, that they would not have arrived in time, a few were purchased at Constantinople, and the further supply was received from Malta. With regard to the other point, in reference to the hatchets, bill-hooks, and adzes, that were said to be furnished to the army in the East, there are no hatchets furnished to the army, neither are there any adzes. I presume the writer meant axes; both bill-hooks and axes have been supplied to the army in the East. A complaint was sent—I think from the Guards, through Lord Raglan—to the Ordnance, with regard to the structure of the bill-hooks and the quality of the axes; and the explanation sent by the Ordnance to Lord Raglan was considered entirely satisfactory. When this subject was brought to my attention by the hon. Member for Sheffield, I caused different specimens of the articles to be brought up from the stores, and had them examined by Sir John Burgoyne and other competent persons, and they considered

that as to pattern and quality they were excellent. It would be strange if it were not so, for the patterns were arranged, after the most careful consideration, by a Committee in 1827, assisted by Major General Miller, Major Jones, and Mr. Wright, then senior clerk of the works in the employment of the Ordnance. Tenders are issued for those materials and the specifications are extremely minute. The articles are furnished, not by open competition, but contractors of proved respectability are put upon the Ordnance list. When these articles are required copies of tenders are sent to those persons, and they send in their tenders. Therefore, it is not correct to say, that respectable and competent persons have to contend with persons who are not respectable. There has been, since these complaints have been made a Committee appointed by the Board of Ordnance, with an engineer officer at the head of them; and though they have not yet concluded their labours, in their opinion the articles submitted to them are of good quality and proper pattern. The axes to which I presume reference is made have been supplied by Mr. Elvin, the eminent manufacturer of Wednesbury, from a pattern brought over by the Guards from America after the rebellion in Canada, and it was considered the best for the purpose that it was possible to get. As to the question, whether the people of Sheffield would be allowed to compete for these articles on fair terms, I beg to inform the hon. Gentleman that no greater service can be rendered to the Ordnance than that those gentlemen should compete for these articles, and every facility shall be given to them to do so. It is an error to think that nothing is considered but the price, for the quality of the articles is severely tested; and never have there been any complaints as to the mode in which the review of the articles has been conducted, except that the review has been considered by some persons to be too strict.

#### SUPPLY—MISCELLANEOUS ESTIMATES.

House in Committee of Supply; Mr. BOUVENIE in the Chair.

Motion made, and Question proposed—

"That a sum, not exceeding 38,745*l.*, be granted to Her Majesty, to defray the Expense of Non-conforming, Seceding, and Protestant Dissenting Ministers in Ireland, to the 31st day of March, 1855."

Mr. BRIGHT said, that this time twelvemonth, or this time two years, he had opposed this Vote, and he now pro-

posed to bring it before the notice of the Committee, with the view of inducing them to recommend its early, not its immediate, abolition. He was glad to say that, although this question referred to a religious body, it did not refer to a religious subject, and he should not have to ask any one to condemn any one's religious opinion, of which they had had already too much this Session, but he would confine himself to matters of arithmetic and tax paying, and he hoped to be able to make out such a case as ought to induce Parliament to abolish this grant, and even to induce some of the recipients of the grant to ask for its discontinuance. This vote of 38,745*l.* represented the interest of a sum of 1,000,000*l.* sterling, and was, therefore, not unimportant in amount, and it differed from all other grants and endowments by the State to religious bodies; for the Presbyterians of the north of Ireland did not pretend to be, and were not recognised as an Established Church, and the noble Lord (Lord J. Russell) could not argue this Vote as he did the *Regium Donum*, which he described as a sum of 1,600*l.* given in charity to Nonconformist ministers in England. It was neither a grant to members of an Established Church, nor was it in the nature of a charitable grant; and he could show that it was in its origin entirely political. The first trace of it in Parliamentary records was to be found in 1690, about the time when there were political reasons which might have justified the course the Government took in establishing that grant. But it continued small in amount till 1803, when if there was a political object for establishing the grant in 1690, there was no less reason in 1803 for extending it; for whereas in 1690 the recent revolution was the moving cause, the rebellion in Ireland in 1798 might have influenced the increase of the grant soon after the rebellion was suppressed. It was arranged in three classes as regarded the amount paid to ministers. One class received 50*l.* a year, another 75*l.*, and the third 100*l.*; and it so continued till 1808, when the scruples of the Presbyterians of the north of Ireland, who were anxious that there should be no inequality in the status of their ministers, induced the Government to equalise the payment, and give 75*l.* to each minister, on condition that 35*l.* a year was raised by voluntary contributions, of which 20*l.* was to be subscribed by the flock of which he was the appointed minister. To show the Committee the way in which the grant had jumped up he would just state

as briefly as possible its successive decennial amounts. It would appear that in the ten years succeeding 1804 the amount voted was 120,000*l.*; in the next ten years, 135,000*l.*; in the ten years from 1824 to 1834, 172,000*l.*; from 1834 to 1843, 289,000*l.*; and from then to the present year, 1854, the Presbyterians in the north of Ireland have received 370,000*l.*, besides a considerable sum voted annually for professors, which would bring it up to 400,000*l.* In the last fifty years the grant had risen from 4,000*l.* to 38,000*l.*; and if it went on in the same proportion in the next fifty years it would become a formidable item in the Estimates. He, therefore, contended that the grant was unnecessary, and he would call on the hon. Member for Newry (Mr. Kirk), who he presumed would consider himself the representative of the class who would defend the grant, to show that there was any necessity for it. No one who was acquainted with Ireland but knew that the Presbyterians of the north were the most prosperous persons of the nation; they were extensive manufacturers, had large towns, and one town and seaport equal in prosperity to any in the United Kingdom. The Presbyterians of the north were generally of the middle class. In Ireland the great landed proprietors belonged to the Episcopalian Church, and the poor were adherents of the Roman Catholic religion. If you took the Incumbered Estates Court as an indication of the pauperism of the higher class, and the Poor Law Commissioners' returns as the indication of the pauperism of the lower, you would find that the Presbyterians of the north had contributed less to those two classes than any other part of the population. It was creditable to them, and they had done good by their assuming that position, and he hoped to induce them to do more good of the same kind. If the grant was not necessary, it was a grant approaching to 40,000*l.* a year taken from the taxation of the people and voted for the endowment of the ministers of a sect composed of some of the most prosperous men in the kingdom. If it was a grant which was not just as regarded taxpayers, how could it be just as regarded other classes of Nonconformists? Compare the recipients of the grant with the Nonconformists and Dissenters of Wales, who were not so prosperous as the Presbyterians of Ulster. They had no port or city in Wales to vie with Belfast; and, with the exception of

was scarcely a prosperous manufactory in the whole Principality. But what had the Dissenters of Wales done? According to the religious Census they had erected 2,500 places of worship, with accommodation for 602,000 persons. The Dissenters of Wales were not the owners of land, but were of the humbler and partly of the middle class; while in Ulster the Presbyterians were confined to the middle class, and there was, therefore, the less reason for their coming to that House for this grant. The Nonconformists of Wales had had built 2,500 places of worship, and supported their own schools and ministers; and he should like the hon. Member for Newry to show why that House should vote a grant of 40,000*l.* a year to the prosperous, active, and energetic manufacturing classes of Ulster, and nothing to another less capable class in Wales, and why the people of Wales have done so much for their religious institutions, and the Presbyterians of Ulster so much less for theirs. It might be said that there was less zeal in the Presbyterians of Ireland. But he would take two bodies of the same faith—which were to be found by crossing from Ulster to Scotland—and show by their example that the Vote ought to be unnecessary to the Presbyterians of Ireland. He would take the United Presbyterian Church of Scotland, which was formed of two bodies who seceded many years ago from the Established Church. That body had 256 ministers, and, he supposed, 256 congregations, as it was to be presumed that every minister represented a congregation. At any rate, he took his information from the *Presbyterian Almanack* for 1854, and it was stated that the United Presbyterian Church in Scotland had 256 congregations, and subscribed 28,000*l.* a year for the support of its ministers, whose incomes used to vary from 80*l.* to 100*l.* a year; but at the last general assembly of the Church they were raised to a minimum of 120*l.* a year, and were to be fixed ultimately at a minimum of 150*l.*, exclusive of house accommodation for the minister. If that Church could do this, why was it not done in Ireland? The Free Church of Scotland had done more. The sum raised by the Free Church in the last ten years by voluntary subscriptions amounted to 3,018,000*l.*; the sum raised in the last year being 295,000*l.*, and the average on the four years being upwards of 300,000*l.* a year. But, whilst the Free Church had raised 3,000,000*l.* in ten years for its own proper uses, and without a

*Mr. Bright.*

farthing of Parliamentary grant, the Irish Presbyterian Church had received 400,000*l.* from the Votes of that House, and he would show that while you were pampering that body with this unwholesome grant, it had prevented its doing those great things which the Free Church of Scotland and the Dissenters of England and Wales, who had received nothing from Parliament, had been doing. It was a fair measure of the activity of the religious zeal of a sect when it was found that they were doing more than supporting their ministers. The Free Church had raised, for missions and purposes of education, a sum of 50,000*l.* in the last year, and the United Presbyterians had raised 16,000*l.* for missions, while the Presbyterians of Ireland had raised for missions of every kind only 10,000*l.* The inevitable conclusion was, that this prosperous and industrious sect, the best men in the world for making and bleaching linen, these men who were continually telling us that they were cultivating and civilising Ulster, who had built the port of Belfast, who, in matters of religion, in the payment of their own ministers, in subscribing for purposes of education, and for missions, fell entirely and deplorably short of all other Dissenters and Nonconformists in the United Kingdom. He was sure that the Committee, whatever view they might take of this Vote, would agree with him that it was injurious to the Irish Presbyterians, that it crippled and destroyed that liberality and generosity which ought to be the distinguishing features of a Christian Church, and that their position was not only unenviable, but must be viewed with regret with reference to all the other Nonconformists of the United Kingdom. To show how eager they had been to grasp this money he would mention one fact. In the Report of Mr. Matthews, in 1848, it appeared that, after the famine of 1847, the Presbyterians of Ireland made an application to the Government that the condition on which the *Regium Donum* was granted, namely, that 35*l.* a year should be subscribed by each congregation, should be done away with, that they should subscribe nothing, but that the *Regium Donum* should still be granted, whether any subscription was made for the minister or not. The noble Lord (Lord J. Russell) very properly refused; but Mr. Matthews said that the rumour that the demand was to be made and would be granted had such an effect on the Presbyterians that some ministers were shorn of the voluntary

contribution of 35*l.* a year, because it was believed that they would get 75*l.* a year from the Government without it. That showed the tendency of these grants to destroy the feeling which induced congregations to support their ministers. There was another point, and he wished to draw the attention of the noble Lord (Lord J. Russell) to that point, and it was one which it would become the Committee to consider, and that was, the expansive quality of this grant. It was not a grant of 38,745*l.* every year, and no more; but it was constantly increasing, and by its very nature offered inducements to what he would call frauds upon the State; and although they might be frauds of the pious kind, yet they were of a kind to which they in that House were bound to attend. The principle on which the money was granted was this:—If twelve families agreed to start a chapel and put a minister into it, and could show that a sum of 35*l.* a year was subscribed, they could get an additional sum of 75*l.* a year for him from the Government. There was nothing like this in any other grant. There was certainly an allowance to the chaplains of Ambassadors abroad, half of whose stipend was paid by the State, and the rest obtained by other means. But here there was every inducement to split off chapels from other congregations, to get twelve families and a subscription of 35*l.* for the minister, and then to get a permanent pension for him from that House. In order to show how this operated he would state, whereas in 1848 the number of congregations in the north of Ireland was 454, it had now increased to 528, making an addition of 74 congregations in six years, and that during a period when it was notorious that the population was decreasing in those counties, as it was all through Ireland, in consequence of emigration, the Presbyterians being included in that movement. The grant, therefore, was, as he had previously stated, an inducement to the fabrication of ministers and chapels, and an inducement for congregations to come year after year to that House for participation in the *Regium Donum*. He protested against this expansive system, and he hoped the Government would at least take care not to allow the extension of the grant. He had been informed that there had been gross evasions of the policy which Parliament intended to pursue with regard to this grant. He had before him communications, by one of which it appeared that a gentleman be

longing to one of the new communions of Presbyterians had given a subscription to help to build a meeting-house, and soon after he was asked to put the sum he had subscribed for the building fund down to the stipend fund, in order to make up the 35*l.* necessary to secure the *Regium Donum*. In another case, a man who was compelled to resign the office of elder in one of the congregations got together another congregation, and in a short time was enabled to place himself in the position so as to obtain the *Regium Donum*. In another instance, in Dublin, two congregations were merged into one, and it was stated that for a long time the two grants from the *Regium Donum* were received by that one congregation. He did not charge the Presbyterians of Ireland as a body with such frauds, but he would boldly assert that this grant was of a description that opened the door to those evasions, and it was only in human nature to suppose that they would probably be practised by some portion of the Presbyterians. It was not to be supposed that all the Presbyterians of Ireland were in favour of this system. In more than one instance congregations had protested against it. In 1845 memorials were presented by congregations in Belfast and Londonderry, and he would mention what was stated by the memorialists of Londonderry. They expressed an opinion—"That it would be no loss, but a gain, to vital Christianity if the *Regium Donum* was abolished: that it was only a ladder by which the Church was enabled to climb into power." They also said that the Presbyterians were able to support their own Church, which consisted of 160,000 families, comprising 800,000 souls, and if each of them could subscribe one penny a week for the support of these ministers, there would be raised a sum of 55,000*l.* a year, nearly the amount of the *Regium Donum* grant; and they showed by a scale how unnecessary this grant was—and he (Mr. Bright) would beg to call the attention of the hon. Member for North Warwickshire (Mr. Spooner) to this. They said that—"If one-half of those persons paid one penny a week, nine-tenths of them less than two-pence, and the remaining tenth two-pence a week, they would raise 50,000*l.* a year, which would be 12,000*l.* a year more than the grant." He (Mr. Bright) would assert that there was not a labourer's family above the most outcast class which would not pay as much and more than that for the ministration of the religion they professed. He could not believe that any men with their own chapels, and all the luxury of a religious organisation, would not be willing to pay 1*d.* a week per head to avoid the necessity of a Parliamentary grant. What would the Dissenters of Wales say if that was asserted of them? But it was only the Presbyterians of the north of Ireland who were men who could do everything except pay their ministers, who were equal to everything, paying for the ministrations of their religion, and who were only emasculated and weakened by this grant, which could not be given to them without injustice to the taxpayers of this country and other classes of Dissenters. To be sure, there was a defence for this system, for there never was anything so bad for which a defence could not be found. He would read a statement in the *Irish Presbyterian Magazine*, to which he would recommend the noble Lord (Lord J. Russell) to attend, as the noble Lord was an adept in defending anything of this kind. It was stated in an article in this magazine—"That the Presbyterians had civilised Ulster, had defended the House of Hanover"—(The noble Lord once said that the Dissenters had defended the House of Hanover; and as the Dissenters did not get anything, he hoped the noble Lord would not adopt this line of defence in this case); "and, lastly, that they had got nothing for the losses sustained by reason of their nonconformity." Why, was not Nonconformity that in which a man gloried in the losses of pickings from the State which he sustained by reason of his following his religious convictions? Had not the Dissenters of Wales and England sustained losses, and did not the Free Church of Scotland sustain losses of all that was dearest to them in connection with their Church; and did any one for a moment think that such men would come to that House to make good the losses they had sustained on account of their nonconformity? Was it not clear that this industrious and respectable class of persons were blinded by this Vote, and did not see the fallacy of their reasoning? Talk of a pecuniary claim for civilising Ulster! He should like to know who it was that civilised Lancashire and the West Riding of Yorkshire? He remembered that Camden, in his amusing Itinerary, told of the dread he felt on looking down from the hills before entering Lancashire, and of the earnest prayer he offered up to Providence to spare him from the dangers he would incur in a country consisting of a vast morass and peopled by uncivilised

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tribes. And who had civilised that Lancashire and the West Riding of Yorkshire? Why, the great majority of the population of those districts were Nonconformists. They did not come to Parliament for grants, but they had some of them sent him (Mr. Bright) to ask to take away all grants; and although the noble Lord President had been induced to remove the grant of 1,600*l.* a year of the *Regium Donum* to the Nonconformist clergy, some of those poor clergymen who had lost 10*l.* a year had never complained; and all he asked was, that the prosperous manufacturers of Ulster should pay their own ministers, and not ask Parliament for any aid for that purpose. This *Irish Presbyterian Magazine* was a very amusing publication. The first article was the defence of this grant to which he had alluded, and the second article was entitled "Love to Ministers," as indicating the good feeling of a Christian congregation. This article gave a correct picture of the Christian religion, and recognised the duty of its followers to support their own ministers. Let it be remembered, that this was addressed to the Presbyterians of Ulster; it was they who were told that they owed it as a duty to religion and Christianity to support their own ministers, and yet they annually came to Parliament for this Vote, equal to the interest on 1,000,000*l.* of money. For his part, he would make no religion a grant, and he was glad to observe that yesterday the hon. Member for Dungarvon (Mr. Maguire) expressed a hope that the time would speedily come when there would be an end to the Maynooth grant. In the language of Dr. Candlish, these grants to the Dissenting bodies were nothing but "hush money" from the State. They were a disgrace to the bodies to accept them, but doubly so to the Presbyterians of Ulster, who were quite rich enough to support their own ministers. The hon. Member for Belfast (Mr. Cairns) could not deny that fact, that is, at least, if he were bold enough to do so he hoped his Church would excommunicate him when he returned home. Many parts of the western portion of Ireland presented an appearance which told pretty well that some of the former Governments of that country had been guilty of a great crime towards the sister kingdom, but these appearances were not visible in Ulster, where the people were prosperous and flourishing. The majority of them were Presbyterians, and, like the Presby-

terians of England and Scotland, they were well able to pay their own ministers. If, then, the Catholics of Ireland, the Free Presbyterian Churches of Scotland, and the Nonconformists of England, had not only the power, but the liberality, to support their own Churches, surely he should not in vain appeal to the Committee to give the Presbyterians of Ulster an opportunity of doing themselves honour by abandoning the State subsidy which they now received, and which sapped the life, the vitality, and the power of their Church. He hoped that the noble Lord (Lord John Russell) would at any rate consent that no further augmentation of the grant should take place, and that an early period should be put to it, due notice of course being given to the Presbyterians, so that they might have time to raise the requisite funds for supplying its place. He hoped that this would be done, because this grant was not necessary, and because it was not just either to the taxpayers or to other religious sects, who neither asked nor wished for such grants. With respect to the form of his Motion, he might propose that the grant should be diminished by 346*l.* 3*s.* 4*d.*, which was the increase for this year—allowing the rest of the grant to pass. If the noble Lord would consent to this proposition, he (Mr. Bright) would take that course, because something would then be done towards affirming the principle for which he contended. If, however, the noble Lord would not agree to this, he (Mr. Bright) would propose to negative the whole Vote, because he wished to have a discussion on the subject generally, and did not intend to ask the Committee to divide more than once.

Motion made, and Question proposed—

"That a sum, not exceeding 38,399*l.*, be granted to Her Majesty, to defray the expense of Nonconforming, Seceding, and Protestant Dissenting Ministers in Ireland, to the 31st day of March, 1855."

MR. KIRK said, he should not attempt to follow the hon. Gentleman the Member for Manchester in the kind of sledge hammer eloquence with which he had spoken on this question. He would rather endeavour to refute some of the fallacies which he had brought under the notice of the Committee. The hon. Member had dwelt much upon the inactivity of the Presbyterian clergymen in the north of Ireland; but he could inform the hon. Gentleman and the Committee that the Presbyterians in Ireland had added seventy-five congre-

gations to their number within the last six years, which went far, he thought, to negative the charge of inactivity. The first payment made to the Presbyterian ministers in Ireland took place in 1672, and it amounted to 600*l.* a year, or 10*l.* a year to each minister (for there were then about sixty ministers). This sum was continued to be paid for nine or ten years, but was discontinued during the troublous times of James II. King William III., on landing at Carrickfergus, ordered the Presbyterians an allowance of 1,200*l.* a year, which was afterwards secured by patent, and it was remarkable that this patent, instead of stating that the grant was given to the Presbyterians for the support of Nonconformity, asserted that it was given them as a compensation for the loss of the tithes which they had previously enjoyed. This fact proved that the grant was on a footing precisely similar to that upon which the Established Church stood, and the present attempt on the part of the hon. Member for Manchester and those who thought with him to knock down this grant was, he believed, simply made because Presbyterianism was an outpost of the Irish Established Church. He denied that, looking at the alteration which had taken place in the value of money, the grant now was, as had been asserted, a great deal more than it was in 1690, for 200*l.* a year now was not worth more than 20*l.* a year was at that time. Then, the hon. Member declared that the sum accorded by the Government for the support of a minister—which amounted not to 75*l.*, but to 6*l.* 4*s.* 8*d.*—was made immediately a chapel was erected, and 35*l.* a year obtained by the congregation. The fact was, that a congregation must have their chapel built, and their minister appointed, and must have paid him a salary sufficient to maintain him for two full years before the grant was even asked for. It must be remembered also that 35*l.* was the minimum sum subscribed by any congregation, and that a very large majority paid their ministers a much larger sum than this. He utterly denied that the Presbyterians in Ireland were a wealthy body. Although they did not possess large wealth, many of them had a moderate competency; but a great many more were very poor. The great thing which philanthropists of the present day aimed at was the prevention of crime. That House, a few evenings ago, voted no less a sum than 1,441,851*l.* for law and justice;

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or, in other words, for the punishment of crime—for he contended that law and justice meant nothing else than the punishment of crime. Yet a class of people were called all sorts of opprobrious names because they attempted to carry the light of truth into the benighted corners of Ireland. Now, he would take the population of Ulster, which, in 1852, was 2,004,287, of which 1,024,635 were Roman Catholics, 394,595 were Episcopalians, and 585,057 were Presbyterians. The number of prisoners in gaol in that country at that time was 1,433; of whom 852 were Roman Catholics, 416 Episcopalians, and only 155 Presbyterians; the proportion being, Episcopalians (he was sorry to say), 1 in 948; Roman Catholics, 1 in 1,188; and Presbyterians, 1 in 3,774. That showed, if the Presbyterians received stipends and participated in this grant, they did not do so for nothing, and that they did their work. He would next take the statistics of three workhouses in Ireland—those of Belfast, Derry, and Monaghan. Of the population of those three Unions, 101,382 were Roman Catholics, 49,981 Episcopalians, and 81,864 Presbyterians; whilst of the inmates of those three workhouses, 1,668 were Roman Catholics, 883 Episcopalians, and 452 Presbyterians. Again, on the 10th September last, 6,006 persons altogether were imprisoned in the gaols of Ireland, of whom 5,268 were Roman Catholics, 601 Episcopalians, and only 137 Presbyterians. There were also in the Government prisons in Ireland, on the 13th September last, 3,902 convicts in all. Of those there were 3,636 Roman Catholics, 222 Episcopalians, and only forty-four Presbyterians. He thought he had clearly shown that these despised and calumniated Presbyterian ministers had all along been doing just the very thing which all the great philanthropists of the present day desired to be done. In April, 1854, there were 230 inmates of the union workhouse of Armagh. Of these, 125 were Roman Catholics, ninety-six Episcopalians, and only nine Presbyterians. There were at the same period ninety-six persons confined in the gaol at Armagh, of whom seventy were Roman Catholics, twenty-three Episcopalians, and three Presbyterians. All that proved that there must be a high standard of morality among the Presbyterian clergymen and people of Ireland. According to the Census of 1851, the whole population of England and Wales was 20,936,468, and, adding two years, at

the ordinary rate of increase, it might be taken in September, 1853, to have been 21,494,772. Of these 21,626 persons were in gaol at that time in England and Wales, or one in every 989 of the whole population; and of this number 323 declared they were of no religion, and of 339 the religion was not stated. If this calculation held good, the result was, that there were more than 320,000 persons in this country utterly ignorant of the being of a God. No such state of things existed in Ireland. He found that in Scotland there were, in the year 1851, 2,870,784 persons, and, adding an increase of 1 per cent in the population, the number of persons in 1853 would amount to 2,928,198. The number of prisoners was 2,838, so that the proportion of prisoners to the rest of the population was one in every 1,032. That was a proportion much more satisfactory than the proportion in England; and, in addition to that, there was not one of those prisoners reported as being utterly without religious knowledge. In Ireland the population in 1851 was 6,515,794—and he made no addition for increased population on account of the emigration which had been taking place—and the number of prisoners was 6,006, or one in every 1,085; so that, although Ireland was generally looked upon as the worst of the three kingdoms, and its population supposed to be the worst instructed, yet in Ireland the proportion of prisoners to the population was as one to 1,085, while in England it was one to 989. It was, therefore, clear that that population, generally considered so miserable, was better instructed than the people of this country, vast as was its wealth, and great as were its means. The reason for that circumstance might be found in the existence of voluntaryism, which would not recognise the right of a man to receive religious services except through the right of his breeches pocket. He had himself a great respect for the Nonconformists of this country, but he was bound to say that the voluntary system had been tried in Ireland, and had turned out a miserable failure. It was said, and truly said, that for ministers it was desirable to obtain a high status of education, and to secure their services during the week; but on the voluntary principle, as carried out in Armagh, it was impossible to procure that desideratum, as the Independent minister would on the Sunday be a clergyman, while in the week day he was a teacher. If it was impos-

sible—and he believed it to be so—to maintain the Presbyterian Church in Ireland in its present state of efficiency without the grant now proposed, he trusted that the Committee would not listen to the insidious arguments of the hon. Member for Manchester (Mr. Bright), but that it would continue a grant which had, as he had proved, been fully responded to by the persons to whom it had been made—persons who had performed their duties in a manner satisfactory to that House and to the people of England.

MR. HADFIELD said, he could not think the hon. Member for Newry, who had just resumed his seat, was a fair exponent of the opinions of the body to which he belonged. He hoped the Nonconformists of this country would be relieved from this odious impost, which they considered so great a stigma on the body at large. Not one denomination, whether Protestant or Catholic, received one farthing from the State for the support of their ministers, except this particular denomination in Ireland, and yet the Presbyterians of Ireland, who received that grant, contributed a sum of nearly 10,000*l.* a year for the support of missionaries abroad. Was it right that these persons, contributing such a sum annually, should put their hands into the Exchequer for the maintenance of their ministers, when they were applying that large sum unjustly and improperly in maintaining missionaries abroad? He did not know on what principle the hon. Member for Newry voted for a Catholic grant, and for other grants, and, himself being a Calvinist, now pleaded in favour of this grant. He would ask the hon. Gentleman the Member for North Warwickshire (Mr. Spooner) if he thought it was a sin to contribute to the Catholics, what did he think of inflicting taxes for the purpose of paying for Unitarian ministers? He (Mr. Hadfield) maintained that no man had a right to tax him to maintain principles which he conceived to be false. Now, with regard to this particular grant, increased now to 42,000*l.* a year within a fraction, there were, he believed, thirteen professors in the College of Belfast—four retired professors and nine active professors—for this one body; and he understood that these professors had little more than twenty students belonging to the Trinitarians, and three to the Unitarians. Of the nine professors, three were professors of divinity, and of these two were Unitarian professors, and they had three students between them, and

to them the State contributed 300*l.* a year. There were from twenty to thirty students of the Trinitarian body, and they had professors of ecclesiastical history, of biblical criticism, and of Hebrew. Not one of those chairs was wanted. Sacred rhetoric was taught by Dr. Cooke at 250*l.* a year. Did any gentleman ever hear of any such professor in any other college in the world? Dr. Cooke further received 400*l.* a year as distributor of this fund; he had the modesty also to receive the *Regium Donum*, and his congregation gave him 300*l.* a year besides. Dr. Montgomery, the Unitarian clergyman, was much in the same situation. He had 150*l.* a year for his professorship; he had the benefit of the *Regium Donum*; he had a grant for distributing to his brethren the portion allotted to them; and together these two professors realised not much short of 2,000*l.* a year between them. The House had heard of these two gentlemen before. They were formerly in one body, and it became too hot for them, and the result was, that the House of Commons was obliged to interfere, and to pass the Dissenters' Chapels Bill, for the purpose of quieting the dispute between those two persons. Now, he asked, was it right that the Unitarian and Trinitarian should mess together in the Exchequer, that they should be differing in everything that pertained to theology, but that when they came to taxes they should agree, and that the hon. Member for Newry (Mr. Kirk), himself a Calvinist, should advocate the tax for both. The Free Church of Scotland was not so numerous a body as the Presbyterians of Ireland, and not so wealthy, and yet the astounding fact stood before Christendom, that 3,018,000*l.* had been raised by that body without coming to the State to ask for one sixpence. This was Christian-like, and yet they had another body of the same class, with the same motives for action, coming year by year as common beggars to that House for the purpose of maintaining their ministers, while they were giving 10,000*l.* a year for objects abroad. This was not general among the Presbyterians of Ireland, and he had received a letter from a gentleman, well known in Ireland, the Rev. Dr. Brise, of Belfast, in which it was stated that all the Presbyterians did not ask for assistance. He would appeal to the hon. Member for North Warwickshire, and to the Members for the University of Dublin, if it was right to support in this way the Unitarian cause in Ireland, and, if they remained silent, he should con-

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sider that they shared his sentiments on the subject. It was time that the House of Commons should take notice of this subject, or they would find that it would excite alarm among their constituents when they came to understand that it was not for the sake of truth that this pecuniary grant was made, but for political purposes. The hon. Member for Newry was not quite correct in saying that a grant had been made to the Presbyterians in compensation for their loss of tithes, for never at any time had the Presbyterians tithes. Another objection to the grant was, that it was distributed to all alike without regard to the private circumstances of the recipient. He appealed to the Government and to the judgment of the noble Lord the Lord President to remove so grievous an impost.

Mr. CAIRNS said, he was sorry to have, in the first place, to interrupt the regular course of debate in order to answer the personal attack which the hon. Member for Sheffield (Mr. Hadfield) had made on one who was not present to defend himself; he meant Dr. Cooke, of Belfast, a divine who was an ornament of his own, as he would be of any other Church. The hon. Member had stated that Dr. Cooke received a large sum for distributing the *Regium Donum*; that he received the *Regium Donum* itself; that he received 250*l.* a year as Professor of the College, and that he had a stipend from his congregation of 300*l.* a year. If all this were true, it would have but little to say to the question before the Committee; but the Committee would agree that those who made personal charges of this description should first ascertain that they were accurate. Now, what were the facts? Dr. Cooke was a distributor of the *Regium Donum*, and for the trouble and responsibility of this, he received a salary or percentage, as any agent must do by whom the duty was performed. Dr. Cooke was also Professor in the Theological College of Belfast, where the youth of the Presbyterian body were trained and educated for the ministry, and he thought that in such an institution the State had made a good bargain to have secured for such a salary the services of such a man. But now came the question as to the stipend; and as to this, the hon. Member would have ascertained, had he chosen to inquire, that when Dr. Cooke was appointed a professor, he ceased to receive any stipend from his congregation, and has continued to perform the pulpit ministerial duties of his church

without any remuneration whatever. [Mr. HADFIELD said he had quoted from returns made to that House.] But what period do those returns relate to? He (Mr. Cairns) was speaking of the period since Dr. Cooke was appointed professor. It was to that period that the charge against Dr. Cooke was made; and he again said it was a charge which ought not to have been made without clear proof that it was well founded. But, then, the hon. Member for Sheffield said he detested bigotry, and was weary of discussions in that House which were founded on religious differences. The hon. Member then asked the Committee to vote against this grant because Unitarians shared in it. Did he call this bigotry or not? But the objection was neither candid nor sincere. If the hon. Member really objected to the grant on that ground, he might move to omit Unitarian congregations, and he would then be taking a consistent course. But the hon. Member knew perfectly well that, if Unitarian congregations were omitted, he would vote against the rest of the grant all the same. But now for the hon. Member for Manchester (Mr. Bright). The hon. Member said you were to judge of the system of the *Regium Donum* by its fruits, and what its fruits were he attempted to prove by reading some anonymous letters. Now, he (Mr. Cairns) objected to the introduction of anonymous letters and statements into a discussion of this kind—but if they were to be referred to, he also held some letters in his hand. The Committee might remember that last year, on the proposition of this point, an hon. Member opposed it, and mentioned a case in which he said that, in order to qualify a minister for the grant, a fictitious stipend had been created by valuing the pew of the minister's own family at 15*l*. The hon. Member described this, and he thought properly, as a fraud. Well, when the case was stated in the House no name was given, and, of course, no answer could be made. But the statement had excited attention in Ireland. The Presbyterians naturally felt that it was a grave imputation on their body, and one of them wrote to the hon. Member who made the statement, requesting to know either the name of the minister, or the name of the hon. Member's informant. He held in his hand the hon. Member's answer. It was signed, "Yours respectfully, John Bright." The writer declined to give either the name of the case or of his authority; but his reasons are amusing. He says

he heard the story on his tour through Ireland; it was notorious and openly talked of; every one stated it, and no one contradicted it; and, therefore, because it was notorious, because it was in every man's mouth, because every one made, and no one denied the charge, the hon. Member says, "For obvious reasons, I must decline to give you the name." Now, he would make a fair offer to the hon. Member for Manchester. Let him give the name of any case in which any fraud or abuse had occurred in obtaining the grant, and he would undertake that it should be investigated and corrected; but if this was declined, he asked the Committee to join with him in deprecating these anonymous slanders, which eluded the grasp when any attempt was made to meet or explain them. But then the hon. Member says this grant cripples the energy of the Presbyterian Church in Ireland, and he refers to the Dissenters in Wales, and what they have done, as a proof of the superiority of an unendowed body. He says, "Look at these Welsh Dissenters; they are so many in number; they are not wealthy; and yet they have such a number of places of worship, and so much church accommodation. Behold what a great and excellent system that must be which yields such fruits." Then he turns to Ireland, and finds that in six years there have been added to the Presbyterian body seventy-five new churches and congregations, or nearly one-sixth of the whole number. [Mr. BRIGHT: With a diminishing population.] Yes; with a diminishing population, and in years when the resources of the country were crippled. All this, any one but the hon. Member would say, was much to the credit, and great proof of the energy, of the Presbyterian body, and might well vie with the feats of the Dissenters in Wales. But the hon. Member says, "This is the very thing I object to: it can be nothing but a vicious and corrupt system which can allow churches to be multiplied at this rate." The church-building of the Dissenters in Wales is a proof of their energy: the church-building of the Presbyterians in Ireland is only a proof of their deadness and corruption. Well, then, the hon. Member concluded by impugning the motives of those who give and those who receive the *Regium Donum*. He said Dr. Candlish called it the "hush-money of the State." Whether Dr. Candlish called it so or not, he could

not tell; but he would take the term as adopted by the hon. Member. Now, whenever argument degenerated into imputation of motives, it was a simple and legitimate mode merely to deny the imputation. But he would tell the hon. Member that he did not know the Presbyterians of Ulster. Much had been said, and said justly, of the Free Church of Scotland, who had left their manse, and glebes, and endowments, rather than submit to what was, or what they thought was, an infringement of their spiritual freedom and liberty of conscience. But the Presbyterians of Ulster were the relatives and descendants of the Presbyterians of Scotland, connected with them by the ties of sympathy, and of a common family and a common faith, and the same principles and feelings which made the Free Church of Scotland resign their endowments, would make the Presbyterians of Ulster reject a grant of ten times the amount, if they thought its acceptance compromised a principle, or placed a bar on their liberty of thought and action. But the question before the Committee was, whether this grant should be continued. [Mr. BRIGHT said he had since intimated to the Chairman he would oppose the increase only.] They had then been discussing, for two hours, a question which the hon. Member now withdrew; but, in any form, the object of the hon. Member was to defeat the grant. Now, he (Mr. Cairns) would simply rest the main question on the ground that it was a matter of contract. It was part and parcel of the settlement of Ulster. On the faith of a grant of this description, the State had induced colonists to settle and improve—churches to be built—young men to have other employment, and to devote themselves to the ministry. And the State had never laid out money better, or got a better return. The civilisation of Ulster—its peace—its industry—its prosperity—were owing, in no small degree, to the Presbyterian body; and let the hon. Member count the grant by decennial periods, or in any way he pleases, he would find that the State gained more than she bestowed. But, on the broad and plain ground which he had stated, he asked the Committee not to entertain any proposition to violate an agreement which had been kept and conferred for more than two centuries.

Mr. VINCENT SCULLY said, he was surprised how some Members opposed the  
*Mr. Cairns*

grant to the Roman Catholics in Ireland, whose sin, if any, was a national one, while they supported an endowment for a body who denied the divinity of Christ, and the efficacy of the atonement. The *Regium Donum* was somewhat upon the same footing as the Maynooth grant. There could be no doubt that the Presbyterians, at one time, possessed some of the tithes. He would vote for the *Regium Donum* as long as the other grants were upheld. It was, after all, a small grant. He noticed that 25,000*l.* had been given to the Church of Scotland to supplement their churches and regale the Commissioner of the General Assembly. He would be ready at any moment to support a Motion for suppressing all religious endowments. At present, the grant to the Roman Catholics in Ireland was about 1*d.* per head on their numbers; that to the Presbyterians in Ireland, 10*s.*; to those of Scotland, 4*s.*; but to the Established Churchmen in England it was 1*l.* 10*s.*, and in Ireland 5*l.* per head. Hon. Members ought to bring in a measure to upset all Church Establishments, and not make an attack on the Presbyterians, who were the weakest body. He considered that the hon. Member for Manchester (Mr. Bright) was not by any means a well-trained or high-bred hound to run down a little leveret when there was greater game before him.

LORD NAAS said, he thought the course which the supporters of the voluntary system had pursued during the present Session of Parliament was a very unfair one, and one which, if successful, would be attended with very unfortunate results. The broad question, whether it was right or not for the State to grant money for religious purposes, ought not to be decided in such discussions. It was a great principle on which many persons entertained strong opinions; let it be brought fairly and openly before the House by Bill or Resolution, but let not some single items of 100*l.* here to a chaplain, or 200*l.* there to a church, be made a test of principle. It was unfair and inconvenient to discuss it as a mere question of money. The present grant was not a bribe for political purposes, but had been granted years ago to the Presbyterians as an inducement to them to settle in Ulster. The hon. Member for Manchester complained that it was an injury to the Presbyterian body, and rendered their ministers inefficient as clergymen. Seeing the number of chapels which had been built, it was ridiculous to say that the grant

had produced no beneficial effects. He happened to know something about the distribution of the grant, and he believed that it was fairly and honestly distributed. He denied there were any of the abuses which had been stated. The governing body of the Presbyterian Church, as well as the Executive Government in Ireland, were personally responsible for its distribution, and certain conditions were required to be performed; for instance, that the congregation should be formed for three years before a minister could participate in the grant. It was unfair that, whilst the grant to Maynooth was placed upon the Consolidated Fund, the Presbyterians of Ireland should have to come to Parliament for an annual Vote—one which they had enjoyed for a great number of years. The proper course would be to place both grants upon precisely the same footing.

MR. PRICE said, that he intended to support the Amendment. It had been said that the Unitarian body was in favour of this grant. As an English Unitarian he must state that such was not the case. They had never come to Parliament, and he hoped they never would come, to ask for a grant for the support of their institutions.

MR. SPOONER said, that having been appealed to by more than one hon. Member in the course of that discussion, he felt called upon to offer a few remarks upon the question under their notice. He was strenuously opposed to the grant to Maynooth upon the ground that it was a great national sin, and upon the same ground he should be prepared to object to any grant given to those who denied the great and vital principles of Christianity. He understood, however, that the grant which was under the consideration of the Committee had been made 250 years ago to the Presbyterians of Ireland, and very few of that body had, he believed, adopted the tenets of the Unitarians—tenets which he held to be wrong, and for upholding which he should most decidedly object that any grant should be made. He could only say with the hon. and learned Member for Belfast (Mr. Cairns) that if the amount of the grant which was to be conferred upon Unitarians could be clearly ascertained, he should readily give his vote that by that amount the grant should be diminished.

MR. W. J. FOX said, he could help the hon. Member for North Warwickshire to distinguish between the Trinitarian and Unitarian congregations; the former receiving 250*l.* a year, while the others were

only paid 150*l.* The noble Lord (Lord Naas) in recommending the supporters of the voluntary system to move an abstract Resolution asserting their views, did not follow the general tendency of opinion and feeling in that House, for when an abstract Resolution was brought in, the House were told it was not worthy to be dealt with by a legislative body. The friends of the voluntary principle were quite competent to decide upon the best time and mode of putting that general principle before the House. These were questions which the House and the Government were continually putting before them; it was known they were repugnant to the feelings and opinions of the body in question, and why were they not to express their opinions? The only mode of asserting their principles was by opposing such Votes as the present. It had been said, that this grant was given for the spread of the pure Gospel, but, as it was distributed among Trinitarians and Unitarians, it was clear that both could not hold true opinions, and that the one opinion necessarily implied the falsity of the other. Then, by some hon. Members, the Vote had been placed upon the ground of a contract. But the Committee had not been favoured either with the date, the terms, or the amount of the contract; and then it came to be described as a sort of understanding. But the Irish Parliament had never understood it to be a bestowment of 38,000*l.*; they never gave more than 5,000*l.* before the Union. The English Nonconformists had as good a right to plead a contract as the Irish Presbyterians; for what sacrifices had the latter made more memorable than the endurance, the persecutions, the privations, and the honourable exertions of the expelled ministers, under the Act of Uniformity, who had laid the foundations of English dissent? He must say he thought the argument drawn from the temptations held out by this Vote to multiply congregations had not been very successfully met. They had had statistics of the number of congregations, but no statistics of the number of the members in them, and if it were found that the number of members of a particular body had not increased, while the number of churches had increased, a case was, he thought, made out for inquiry. If the Vote went on increasing, and the members of the church did not increase, a strong presumption was afforded of some indirect and unfair means being at work, such as no general panegyric of a particular sect or

its ministers could wipe away. An hon. Member had alluded to the paucity of members of the Irish Presbyterian body who were to be found in the workhouses and gaols, but what did this prove? that they were, generally speaking, a well-to-do body of men, who kept themselves out of the workhouses, and were not likely to get into gaol. The hon. Member (Mr. Kirk) had told them that, while in England hardly one person in gaol knew anything about religion, in Ireland no such thing happened; every rascal who got into gaol there had religion. Very pretty religion, indeed! The hon. Member attempted to justify the Vote by showing that it was a subsidy to those who, by their preaching and teaching, kept persons out of gaol. But was it true that they had effected that object? If they looked to these returns, he admitted that they observed considerable advances in national education, and a corresponding effect in the decrease of crime. They perceived a tangible result from the Irish school, but they could not trace it to the Presbyterians. Their number showed no increase; they were at a standstill, a fixed principle, and could not arrogate to themselves the honour of affecting materially crime in Ireland. He would not repeat arguments which had been used year after year, but would simply say he opposed this grant on the ground of its being pernicious in its results. It was a grant which could not be identified with any great good to the people of Ireland, and it violated a principle which he thought it would be well if the Government would consent to be guided by—that of adhering to the management of the political and temporal concerns of the nation, and leaving its religion to the consciences of the people.

MR. NAPIER, who rose amid cries of "Divide," said, he would not detain the Committee long, but it was incumbent upon him to make one or two remarks after what had fallen from the hon. Member for Sheffield (Mr. Hadfield). He (Mr. Napier) did not perceive that, in giving his vote for the support of this grant, he was raising any theological question. He gave it on the same principle as he had voted for the support of the chaplains in lunatic asylums, a portion of which went to Roman Catholics, because he thought it raised no religious principle. He considered the present Vote was the result of a contract made with the Presbyterians who settled in Ireland, and he thought when, by way

of inducing a body of men to go over and settle there, they had entered into such a contract, they could not now repudiate it. It was not open to the objection that it was an endowment, because it was only given in support of Presbyterian ministers where the people themselves came forward and assisted in the support of their ministers. He considered there was not a more deserving, industrious, and energetic class of men in the United Kingdom than the Presbyterians of Ulster, and hon. Members had no right to rise in that House and stigmatise them as beggars. With regard to the Trinitarian and Unitarian question, which had been, he thought, very unnecessarily revived, he would say no more than that he considered the grant was justly given on the principle that both classes took the Bible and the Bible alone as their guide in faith and morals, and the only main point of difference was as to the subscription to certain articles of faith. He would say, in answer to the hon. and learned Member for Cork (Mr. V. Scully), that Unitarians did not deny the divinity of the Saviour, although they might not admit the doctrine of co-existence. At all events, they did not admit that any created being was superior to him, which could not be said of members of the Roman Catholic Church. He thought, however, no religious question at all would be raised on this Vote, which was founded upon a principle of contract, and ought to be argued on that principle alone.

LOWE JOHN RUSSELL: Sir, in consequence of the words which fell from the hon. Member for Manchester (Mr. Bright), I wish to make a few observations. I could wish that in one respect the example of the hon. Member for Manchester had been followed, because he said that he would steer clear of any religious question or any religious difference which might exist with respect to this subject, and he kept his word in the speech he had made. I could wish, also, that the hon. Member from Sheffield (Mr. Hadfield), and the other hon. Members who have since entered into the question, had observed this with regard to the question of Unitarianism, a question which I think much better kept out of the discussion. I am willing, likewise, not to enter into the general question of the principle of the grant, were it not for what has fallen from the hon. Member for Manchester, who has a great fund of arguments at his disposal on this question, and well knows how to make

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use of them. The noble Lord the Member for Coleraine (Lord Naas) desired that a general Resolution should be moved on which we could discuss the whole question; but the hon. Member for Manchester knows very well, if the abstract question is entered into, what the result will be. He says—you are putting the whole machinery of church rates out of the question. He then comes to the voluntary principle, maintaining that all religious establishments ought to be put down, that no votes ought to be given, and no grants allowed by Parliament. This is the discussion which he enters upon, making a very large discussion upon a very narrow foundation, and he thus gains his object of repeating his arguments without having the answers on the other side heard. No one knows better than the hon. Member for Manchester how great the advantage is which he derives from this method of arguing, and I am afraid that he will not take the advice of the noble Lord the Member for Coleraine, and give us an opportunity of discussing the whole question. However, on this question I certainly see no necessity for entering into it at any great length on the present occasion. There appears to me to be two grounds upon which this Vote rests; one is the great ground upon which the right hon. and learned Gentleman opposite (Mr. Napier) has just referred—to the Parliamentary contract and the general expectation of the Presbyterian body. The Presbyterian body settled in Ireland, and were engaged in supporting the throne of William III., and subsequently in supporting the Throne at the time of the Union. At those times expectations were held out to them to the effect, that they were to be entitled to the support of Parliament for the ministers of their religion, and, in fulfilment of that expectation so held out to them, a number of worthy and pious men are to be brought before the House, and stigmatised as beggars, because they are asking for the fulfilment of a contract which was made with them. Without entering into any of these questions, it might be said that the feeling of the State was manifestly against the support of the Presbyterian clergy, and that in this case, as the hon. Member for Manchester suggested, an engagement might be made by which the present ministers should receive this support, but that future grants should be curtailed. From this policy, however, I entirely dissent. Putting aside the ques-

tion of peculiar doctrines, I cannot but see that those teachers have exercised a great and beneficial effect upon the morality of the people among whom they live. And of that morality the State derives the benefit, for when fewer persons are sent to prison, when fewer crimes are committed, when less expense is incurred in protecting from crime, the State derives the benefit of that abstinence from crime; and I believe there are no men who contribute more to the morality that prevails among the Presbyterians in Ireland than their religious teachers. Had there been no grant in existence, I do not know that I should have proposed to commence it; but, seeing that for many years it has continued in the shape of a compact with Parliament, and seeing the beneficial effect which this grant has had in maintaining morality and order, I shall give my vote against the hon. Gentleman's Amendment.

Mr. BRIGHT, in reply, said, he wished to explain, that he did not propose to reduce the Vote below the amount of last year. But there were five new congregations put on the list, the allowances to whose ministers increased the Vote by the sum of 346*l.* 3*s.* 4*d.*; and it was this sum he proposed to reduce, as he thought that the increase ought, for the present, to be suspended. He would not attempt to answer the arguments which had been used, on the other side, for he thought that the extreme difficulty which the noble Lord showed he laboured under in making out a case, was the best answer that could be given.

Question put.

The Committee *divided*:—Ayes 62; Noes 149: Majority 87.

Vote agreed to.

(2.) 6,426*l.*, Concordatum Fund.

Mr. W. WILLIAMS said, there was a strange mixture of subjects in this Vote, and he had no doubt that their distribution, as in all such cases, was a great job. He asked explanation as to some of the items.

Mr. J. WILSON said, the grant was as ancient as the reign of Charles II. It had been taken from the civil list and put upon the Estimates to enable the Lord Lieutenant to distribute it in small sums among various deserving charities in Ireland. It had been much diminished of late years, and was exactly of the same nature with the Queen's Bounty in England. The items were all under the management and control of the Lord Lieutenant.

Mr. MICHELL said, he wished to see the Vote withdrawn, in order to its being increased to the same standard as in England. He objected to London obtaining so much of the public money in preference to other parts of the country. He thought the Vote for the Dublin Vaccine Institution should be increased 500*l*.

Mr. VANCE said, he also must express a hope, that, if not in the present, at least in future years, the Vote for the Dublin Vaccine Institution would be enlarged.

*Vote agreed to.*

*Motion made, and Question proposed—*

"That a sum, not exceeding 11,855*l*., be granted to Her Majesty, to defray the Expense of the General Board of Health, to the 31st day of March, 1855."

SIR GEORGE PECHELL said, a promise had been given by Government that this Vote would only be made to extend to the 1st of November next, whereas it reached to the 31st of March. He felt bound to condemn the system pursued by the Board as unconstitutional, and he considered that, under the provisional orders which they issued from time to time, great injustice was done to various towns throughout the kingdom. He did not think it was right to grant money for the Board for any time beyond that fixed for its extinction, and he should therefore move to reduce the Vote of 11,855*l*. to 6,855*l*. He hoped all those hon. Members who wished to get rid of the Board of Health—and he knew there were many of this mind—would support his Motion. He should also like to have some explanation as to the repayment of the sums charged for the expenses for the superintending engineering inspectors. It was stated in the Estimate, that these sums were to be repaid by local boards, but he thought they were very much mistaken if they expected that those towns which had succeeded in rejecting the embraces of the Board of Health would ever repay a farthing of the expenses which had been incurred in the attempt to bring them within the operation of the Health of Towns Act.

*Motion made, and Question proposed—*

"That a sum, not exceeding 6,855*l*., be granted to Her Majesty, to defray the Expense of the General Board of Health, to the 31st day of March, 1855."

VISCOUNT PALMERSTON said, nothing was more easy than for an hon. Member to get up and say a thing was useless, a nuisance, and ought to be put an end to, when there was no immediate danger, or

any evil to be averted or remedied; but if a period of calamity were to follow, everybody would cry out, "What was the House of Commons, what was the Government about to have abolished the very department which was to secure us against the recurrence of calamities of this kind?" If there had never been in this country any such thing as cholera—if the population had never been swept away in consequence of defective arrangements for sanitary purposes—then he could understand any one saying, "We don't want any particular department to look after our health—let the country take care of its own health;" but really, after the sad experience we had had upon former occasions, after the population had been twice swept away by a visitation of that kind, and when even during the last summer we had a most awful warning of the consequences of improper and imperfect arrangements, he did not see how any one could seriously propose that a department of this kind should forthwith be abolished. If Brighton did not wish to be included in the arrangements of the Board, there would be no difficulty in excluding that town. Now in every town there were two parties known by the two designations corresponding to those of Whig and Tory, and almost dividing the town—the one was the clean party, and the other was the dirty party. These were the well-known factions. One man would say, "I am of the dirty party—I like the dirt—I don't choose to pay for being clean." Now, in the towns where the dirty party prevailed, the arrangements of the Board of Health did not apply, for the hon. and gallant Member for Brighton had said enough to show that it was not in the power of the Board of Health to compel the dirty party to submit to the clean party. A provisional order could not be issued without a preliminary proceeding indicating the desire of a certain portion of the inhabitants to have these arrangements established, and where applications had been made to convert provisional orders into law, they could not be so converted, except with the consent of Parliament. In many cases these orders had been rejected by Parliament, and that was conclusive evidence that the Board of Health could not impose on a town arrangements which the town might think inconvenient and useless. If hon. Members were to read the accounts which it had been his lot to read of the condition of some towns, they would be surprised, not at the occurrence of periodical visitation of disease,

but that the population was not altogether extinguished. The condition of Newcastle, for instance, was enough to make any man shudder to think that such a state of things should exist in a civilised country. The successful exertions of the Board of Health to avert cases of disease, so far from exposing them to animadversion, entitled them to the thanks of the country. The object of the Board of Health was not to administer local arrangements, but to promote local self-government under the arrangements which they might suggest. Where local Boards of Health had been established they had made arrangements of the most important description, relative to drainage and the water supply, adding greatly to the health and comfort of towns. He thought that it was of infinite importance that this machinery should not for the present be disturbed, more especially at this moment, when they could not say that before the winter arrived they should not be exposed to a recurrence of that awful visitation of the cholera, a warning of which they had received last summer. He could not, therefore, give his consent to the proposal of his hon. and gallant Friend to abolish the Board at the time he proposed. He was ready to admit that the constitution of the Board required alteration. The fault of the present arrangement was this, that it was a Board vested with considerable powers, not represented in Parliament by any public officer having a control over its proceedings, and responsible for those proceedings. There might be different ways of reconstituting the Board. It might, for instance, be constituted without any limitation, or with a limitation of time. He considered a limitation of time reasonable, and had given notice of his intention to propose the continuance of the Board under certain modifications for two years, during which time an opportunity would be afforded of ascertaining whether it worked efficiently or not. It appeared to him that the care of the health of the country fell properly within the functions of the office which he had the honour to hold—the Secretary of State for the Home Department, being generally charged with regard to the interests of the country at large, was the person who ought to be made responsible for this peculiar duty. He intended to propose that the Board should continue as at present for two years; that it should consist of two paid members and one unpaid member; but that it should be subject to the instructions and directions of the Secretary

of State. The consequence would be that the Secretary of State would have a controlling power over the Board, and that if complaints should be made of its proceedings, he would have the power of calling it to account, and of sanctioning or rescinding its proceedings, giving an account thereof to Parliament. The department would then be constitutionally represented in that House, and it appeared to him that the Secretary of State for the Home Department was the person who ought to be liable to blame or censure, if blame or censure should attach, and who ought to be guided by the opinion of that House upon any matter pending, with respect to which the opinion of Parliament might be required. This, then, was the general outline of the Bill which he intended to propose. He really thought it impossible, with a due regard to the public health, to discontinue these arrangements at the present moment. He did not at all mean to say that there would be any necessity for the permanent continuance of such a Board. It was very possible that when more towns had organised themselves, and made provision for their own security, the central Board might no longer be required, for the action of that Board almost ceased as soon as a local Board had been established. Under all the circumstances, however, he could not, at this moment, agree to the Motion to reduce the Vote.

LORD SEYMOUR said, he agreed with his noble Friend that many sanitary measures might be introduced and carried out; and it was because he wished to see them carried out that he objected to the principle of a Board which, instead of carrying out sanitary measures, had made sanitary measures unpopular. He thought that, under the present constitution of the Board of Health, this must be the result of its operations, because sanitary measures were brought in, not by the free will of the people, but by the despotic interference of this central Board. His noble Friend had said, that people were unwilling to hear about the Board of Health until disease occurred, and that when disease occurred they turned round and inquired what the Government had been about. Now, he wished himself to inquire what the Government had been about, and for this plain reason, that they were promised last year an amendment in the constitution of the Board of Health, that no such amendment had been made, and that the Committee was now called upon to vote for the main-

tenance of that Board in its present form, although everybody admitted—and his right hon. Friend the President of the Board of Works had declared—that it was most unsatisfactory. Surely this was a most unreasonable proceeding. He would remind his noble Friend the Home Secretary that there were two paid Commissioners—that one of those Commissioners had been appointed for the purpose of carrying out the Burial Act—that the Burial Act had been abandoned—but that, nevertheless, the Commissioner remained. His noble Friend had given no reply to the inquiry why the Commissioner had been retained, although the business of the Commissioner had been abolished. But what he wanted to know was, who was to be responsible for the proceedings of the Board. His right hon. Friend (Sir W. Molesworth) had stated—and had stated very properly—that he would not be responsible for those proceedings, because he was only an individual member of the Board, and his opinion might be overruled by his colleagues. When he (Lord Seymour) was himself at the Board of Works, and, after communicating with the other Members of the Government, had made a communication to the Board of Health as to the course which he thought they should adopt, he was told that his proposition was not seconded—that the members of the Board knew nothing of what the Government might wish; they only knew that, at their Board, the proposal was not seconded, and it consequently fell to the ground. Was that the way in which public business was to be conducted? Were they to be called on to vote money for the maintenance of a Board which carried on its proceedings in this way, and set the Government at defiance? The only way to bring these gentlemen to reason was just to stop their salaries. His noble Friend had said, that if they had seen the accounts sent in by the inspectors they would vote this money immediately. He had himself visited a town immediately after a Report of that kind had been sent in, and having taken the Report in his hand and tested by personal examination the statements which were made in it, he had no hesitation in declaring that a more exaggerated Report he had never read. The invariable recommendation of the inspector was, that the towns which they were sent to visit should be brought under the Board of Health; and what did the Board of Health in return? Why, they stated that the

inspector had devised a very beautiful system of drainage, and that he had better be allowed to carry it out; and if the town did not adopt this advice, and did not employ the inspector, there were such hindrances or difficulties thrown in its way that it soon bitterly repented it. The fact was, that the inspector brought in the Board, and then the Board brought in the inspector. This was the system they were asked to maintain, and because they objected to maintain it, they were told that they were objecting to sanitary measures. Upon the question of local self-government, he must remind his noble Friend that there were many orders of the Board of Health which did not require the sanction of Parliament—which only required the confirmation of an Order in Council—a proceeding against which it was impossible to offer as effectual a resistance as might be made to the passing of the Bill, and that thus many a town had been brought against its will under the coercion of the Board of Health. His noble Friend had also said, what an excellent system of drainage they had established! He doubted it. Their system was utterly denied by the best engineers of the metropolis; and when they stated that they had brought in, instead of brick sewers, a new system of sewers graduated in size, he must observe that their graduated sewers unfortunately choked up, and that they thus created a nuisance where they professed to be about to drain. They had published a pamphlet in defence of their proceedings, which was almost an indecent thing to have been sent out by a Government establishment, and in which they had set down certain "conclusions" arrived at by the Board of Health, but denied by everybody else. He should like his noble Friend to state whether that pamphlet, called "A Report of the Board of Health," was in the same form now in which he had received it from the Board; because he must say that a good deal of it had the appearance of having been "cooked." The Report impugned the motives of the Members of that House, because the measures of the Board were not approved there; and stated that an intimation had been received that the Parliamentary agents looked upon those measures as an interference with their emoluments. He did not mean to say that a good system might not be established. They had seen in old times how the Poor Law had stood in that House. Who was at the Poor Law Board then? The same

*Lord Seymour*

person who was at the Board of Health now. And who had brought the Poor Law into detestation in this country? Who heard any complaints of that law now, under the administration of his right hon. Friend below him (Mr. Baines)? Were they to go on, then, maintaining the Board of Health in upholding a system which was so unpopular? He thought it desirable that, at all events, the Government should withdraw the Vote until the House of Commons had been informed upon what system the Board was to be continued. When they knew that, it would be time enough to vote the salaries.

VISCOUNT PALMERSTON said, his noble Friend must have been so intent upon the argument which he had made up his mind to offer to the Committee, that the observations which had fallen from him (Viscount Palmerston) must have fallen noiselessly on his ear. He had endeavoured to state to the Committee—vainly, as it appeared, so far as his noble Friend was concerned—what were the alterations which he intended to propose. His noble Friend had stated that when he had gone to the Board of Health as President of the Board of Works, no one had seconded his Motion—that no one had the power of controlling the proceedings of the Board—and that no person in that House was responsible for those proceedings. He had stated that his intention was that there should be a control for the future—that that control was to be given to the Secretary of State for the Home Department—that when the Secretary of State proposed anything, there would be no need that any one should second it—that any such proposal would take the form of an order, which must be obeyed—and that the Secretary of State would stand there, as an official person, responsible for all that he permitted the Board to do, and for all that he did not compel it to do. He was, therefore, surprised that his noble Friend should have passed over what he had said as if it had never been said at all.

LORD SEYMOUR said, he thought it was important that they should have the Bill first; and when they knew what the constitution of the Board was to be, it would be time enough to vote the money for carrying it on.

SIR BENJAMIN HALL said, he had, for his part, listened most attentively to the speech of his noble Friend, and he considered that the speech of the noble Member for Totnes had been quite to the

purpose. As far as he understood it, the plan of his noble Friend embodied precisely the same Board of Health that now existed, and that was precisely a prominent objection to the plan. There was no doubt that a Board of Health, properly constituted, would be one of the most useful and acceptable institutions of the country, and what he desired to see was a Board of Health placed on such a footing that it should enjoy the confidence of the country, without which confidence such a Board must be worse than useless. As to the present Board of Health, he would undertake to say that a more unpopular Board was never appointed, and, therefore, it could not be useful. The noble Member for Totnes had put a question as to the pamphlet he had described to the Committee, which his noble Friend had not answered. He (Sir B. Hall) had been informed, on good authority, that a Report had been sent from the Board of Health to the Secretary of State for the Home Department, as the Report of the Board of Health; that this Report was then sent by the Secretary of State to the printer, by whom it was forwarded to the Board of Health, who, without the knowledge or consent of the Secretary of State, made large alterations and additions thereto: that the Report, so altered and enlarged by the acting members of the Board, was printed under their directions, and, so printed, was distributed by them—to the number of 4,000—throughout the country, before it came at all into the hands of Members of that House. This was, among other grave objections to the proceeding, a striking illustration of that profuseness of expenditure upon printing which so discreditably characterised the Board of Health, and which was well deserving the attention of the Treasury. The Report thus printed and distributed was not a fair Report of the Board of Health as a public department, but a pamphlet written by Mr. Chadwick in laudation of the proceedings of himself and his acting colleague, wholly valueless as a Report of the department. He felt it his duty to point out to the Committee and to the country what was the real composition of this Board. At the outset it had been clearly designed that there should be a responsible member of the Commission in Parliament, responsible there for the proceedings of the Board, and that officer was to have been the Chief Commissioner of Works. No one, however, could possibly censure the right hon. Gentleman now,

filling that office for having practically withdrawn from the proceedings of the Board, and their responsibility, so soon as he found by repeated experience that his assistance and his services were set at naught by the acting Commissioners, who were sure to outvote him on any point which did not precisely suit their particular views. The right hon. Baronet had honestly manifested his desire to go on with these persons, and had only withdrawn when he found this an impracticable endeavour. The next member of the Commission whom he would name was a nobleman whom all must eminently respect and esteem for his benevolent intentions—the Earl of Shaftesbury; but this upright and well-intentioned nobleman was no match for Mr. Edwin Chadwick and Dr. Southwood Smith, the paid Commissioners, who systematically acted in concert together, and who were, in fact, the Board. When his noble Friend said he intended to-morrow to introduce a Bill to continue the Board, he concurred with him in the propriety of that intention; but he entirely differed from him in the view that there should continue to be two paid members and one unpaid member, understanding that this view contemplated that the two paid members should still be Mr. Chadwick and Dr. Southwood Smith. He conceived it a perfectly fair proposition on the part of the noble Member for Totnes that the House should postpone its assent to this Vote till it saw what was to be the composition of the Board. He was perfectly certain that if the Board was to continue, composed of the same members as now constituted it, putting aside the Chief Commissioner of Works, such a Board would be worse than useless, because the country at large utterly repudiated and rejected the two persons whom he had especially specified—Mr. Chadwick and Dr. Southwood Smith. When the House was called upon to sanction the appointment of public officers, it ought closely to investigate the antecedents of the persons nominated for their approbation. Now, what were the antecedents of the two worthies he had named? He would beg leave to sketch an outline of their past career not wholly unamusing in itself, and which would enable the House to judge whether their services had been such as to entitle them to the confidence of the House and of the country. In the year 1831 there was a great agitation against the Poor Law, and in 1832 Mr. Edwin Chadwick, who

had not been unknown in that agitation, was appointed a Commissioner to inquire into the Poor Law. In 1834 Mr. Chadwick was appointed Secretary to the Poor Law Commission, with a salary of 1,500*l.* per annum. So soon as he was appointed to that office, instead of working in the most lenient manner a measure which gave most enormous powers to the Commission, powers almost unprecedented, Mr. Chadwick worked the law with such severity, he issued rules of such atrocious stringency, separating for the first time men from their wives, parents from their children, that the law became almost intolerable; and the scenes which took place in consequence of the proceedings of the Poor Law Commission, of which this Mr. Chadwick was the prime mover, resulted in the notorious Andover inquiry. During the sitting of that Committee, facts were adduced which led to the dissolution of the Commission and the dismissal of Mr. Chadwick. The Commission was then placed under the charge of Mr. Charles Buller, next under that of Mr. Strutt, then under that of Mr. Baines, next under that of Sir John Trollope, and, lastly, again under that of Mr. Baines, by whose successive care these monstrously stringent rules had been relaxed, and now the Poor Law, as the noble Lord had remarked, worked in almost entire harmony with the feelings of the people, and had become an institution of the greatest value to the country. These broad facts manifested the impolicy of continuing a person of the character of Mr. Chadwick in office. His failure—his utter failure—in the Poor Law Commission was matter of universal admission; nay, more, one Commissioner, Sir Frankland Lewis, had not hesitated to denounce him as an unscrupulous and dangerous man. Having thus failed, and worse than failed, in connection with the Poor Law, Mr. Chadwick turned his attention to sanitary measures, with which he had continued mixed up until this day. He concocted a pamphlet on the subject, with the aid of his friend Dr. Southwood Smith, with whom he had been closely knit ever since, and in company with whom he managed, in 1847, after his dismissal from the Poor Law Board, to get appointed a paid Commissioner to inquire into the sanitary condition of the metropolis. They drew up a Report on the subject, which, so far rightly enough, recommended the dissolution of the then Metropolitan Sewers Commission. A new Commission was appointed, and—

*Sir B. Hall*

this was in November, 1847—Mr. Chadwick got appointed, still in company with his worthy friend Dr. Southwood Smith, one of the new Commissioners. The pair had not long been in office before they worked a quarrel with the other Commissioners, which resulted in the dissolution of the Commission. A fresh Commission was appointed, and the pair again got up a quarrel with their brother Commissioners, terminating, as before, in the dissolution of the Commission. But the Metropolitan Sanitary Commission, of which Mr. Chadwick and Dr. Smith were paid members, could not last long, and in order to perpetuate their services the General Board of Health was got up, under Mr. Chadwick's auspices, Mr. Chadwick himself getting appointed a Commissioner at 1,500*l.* a year; and in this Board he had failed as signally and as mischievously as in the two other Boards, for by his proceedings, concocted with his friend, Dr. Southwood Smith, who still accompanied him, he had managed to render the Board of Health well nigh as unpopular as he had rendered the Poor Law Board, and consequently to render it ineffectual for the valuable purposes to which, under sound and honest management, it might be applied. If, then, an attempt were made to continue this most objectionable person upon the Board, he would resist that endeavour to the utmost of his power. The chief Commissioners, in succession, had found it impracticable to control the mischievous vagaries and extravagances of these two persons, and the only remedy was to get rid of them altogether. The series of offices which Mr. Chadwick had held was, according to his own return, as follows:—Commissioner of Inquiry into the Poor Laws, 1832; Commissioner of Inquiry into Employment of Persons in Factories, 1833; Commissioner of Inquiry into the Establishment of a Constabulary Force, 1839; preparation of Sanitary Reports, 1842 and 1843; Commissioner of Metropolitan Sewers; Secretary of the Poor Law Commission; Commissioner of the Metropolitan Sanitary Commission, and now Commissioner of the Board of Health, with, in most cases, large salaries, but what the practical services were which he had rendered to the public remained to be discovered. He himself (Sir B. Hall) was quite at a loss to know what services this man had rendered to the community. He might be asked, why did he, a metropolitan Member, thus especially interest himself in proceedings which os-

tensibly affected only country localities? As a metropolitan Member he had good reason to interpose, for he saw the encroachments of these men making their way to the metropolis itself, and menacing it with the same mischiefs and the same discontents which they had engendered everywhere else. At the close of last year there appeared in the *Times* and other London papers notices of the regulations under which the Metropolitan Buildings Act was to be carried out in the burial-grounds of London. Those regulations, which many believed emanated from the Board of Health, or from some of the members of that Board, were of the most outrageous character, separating in their graves the parents from their children, and were so offensive and so disgusting to the finer feelings of mankind, that there was a commotion in all parts of the metropolis, letters were sent to the noble Lord the Home Secretary to know what was meant by these regulations, and his noble Friend was obliged to have a letter published in the morning papers in order to set the public mind at rest. His letter was to the effect, that no general regulations had been issued for the new burial-grounds, and it satisfied the public mind that the Board of Health would not dare to enforce its regulations. He would now state the various offices held by Dr. Smith, and it would be seen how invariably he had been associated with his present colleague. He had been Commissioner of Inquiry into the Employment of Persons in Factories; Commissioner of Inquiry on the Employment of Children and young Persons in Mines and Manufactories; Inspector of Sanitary Reports for Poor Law Commission in 1842 and 1843; Commissioner on Metropolitan Sanitary Inquiry; Commissioner of Sewers; preparation of evidence for the Select Committee on Health of Towns; preparation of evidence for Health of Towns Commissioners, 1844; and now Commissioner of the Board of Health. It had been said truly that Dr. Southwood Smith was appointed to carry into effect the Metropolitan Interment Act, an Act which had been brought forward in 1850, when it was opposed by the metropolitan Members, who had warned the Government that it would not work. What they said had proved true. It had been forced upon them, and in 1852 it had to be repealed, but Dr. Southwood Smith had been appointed to carry out its provisions, and thus another of Mr. Chadwick's objects was at-

tained. When the noble Lord the Member for Colchester (Lord J. Manners) was Chief Commissioner of Works he had given a pledge that the subject should be brought under the consideration of the Government, and the Vote for Dr. Southwood Smith was passed in 1852-53 with a full and distinct understanding that there should be no Vote for him again in 1853-54; but now we were called upon, in 1854-55, to pass a Vote for the salary of this gentleman, who had been appointed to carry out the provisions of an Act which had been found to be unworkable, and had been repealed. It was perfectly monstrous that an officer who had been appointed to carry out the provisions of an Act should continue to receive a salary for doing so after the Act had been repealed. He begged and prayed his noble Friend, if he intended to bring in a Bill, to consider seriously the reconstruction of the Board. He did not at all desire to abolish the Board, but he wished to see it reconstructed in a useful manner, so as to make it creditable to the Government and popular with the country; but he told his noble Friend that, if he attempted to place Dr. Southwood Smith and Mr. Chadwick at the head of it, the Board could not possibly be either popular or useful. If he were asked by the Secretary of the Treasury whether he would give these gentlemen 1,500*l.* and 1,200*l.* a year respectively out of the public funds, and send them about their business, or retain them in their present situations for the same salary, he would say, "For God's sake pay them the money and send them about their business, if you believe they have been of service to the State, but it is impossible to get on with them." He (Sir B. Hall) had already stated that the Board of Health had not now any jurisdiction within the metropolis. It would be his duty to see that no additional powers were granted to that department, and he hoped that the provincial districts might soon be equally freed from the interference of the present Commissioners, and that the Board might be reconstructed in such a manner as to ensure the confidence of the country.

VISCOUNT PALMERSTON said, he must beg to explain that all the knowledge he had of the Report alluded to by his hon. Friend (Sir B. Hall) was, that it was sent by the Board of Health to the Home Office to be printed and laid before Parliament. It was their Report, and they were perfectly authorised at any time to make any

*Sir B. Hall*

alteration they pleased in it, and to place in a more correct form the statement they wished to make to Parliament. He (Viscount Palmerston) could not cut out or object to any part of the statement which they made on their own credit and reputation. The Bill which he intended to introduce would give him a control over the Board; and when it was stated that no one could keep those gentlemen in order, he ventured to think that any man who had the honour to hold the office which he held would be able to keep in order any one whom the law made subject to obey his orders.

SIR BENJAMIN HALL said, he understood that after the Report was sent to the printer matter was introduced into it that had never been sent to the Home Office.

MR. HEADLAM said, with reference to the observations that had been made with respect to the sanitary state of Newcastle, he was willing to admit that there were parts of the town which it was painful to witness, and which would require long and continued exertion before they could be made conformable to modern sanitary principles, but at the same time, when he compared that town with parts of London, or parts of other large towns in the country, he would say there was not any material difference between them. The present Board of Health did not possess the confidence of the country, and it was perfectly essential, in an undertaking of this description, that the Board should be supported by all the circumstances that could give it authority. It was not only necessary to reform the central authority, but they should also direct their attention to the manner in which the local powers were carried into effect, so that some power might be established which would be sufficiently strong to control private interests, which generally opposed themselves to sanitary rules.

MR. HEYWOOD said, that to a Board of this kind a certain degree of unpopularity must always be expected to attach; but he was quite willing to allow that the present members of the Board had their share of the unpopularity, though he did not think they deserved all the censure that was cast upon them by the hon. Member for Marylebone (Sir B. Hall). In some parts of the country their efforts had been unfortunate, but in other parts their exertions had been attended with success. He could speak from long personal acquaintance with those gentlemen, and he believed them both thoroughly to under-

stand the subject, and believed it to be of importance to the welfare of the people of the country that the persons placed on the Board of Health should be masters of the subject. The medical department was taken by Dr. Southwood Smith, and Mr. Chadwick attended to the engineering and more practical parts; but he (Mr. Heywood) was glad to hear from the noble Lord the Secretary of State that the Board was to be under his control.

VISCOUNT PALMERSTON said, he had no objection to accede to the proposal of his noble Friend (Lord Seymour) which only appeared reasonable. As he was to bring in a Bill on the following day, he would agree that this particular Vote should be postponed.

MR. APSLEY PELLATT said, he was of opinion that it would be of no use to bring in a new Bill unless the Board was entirely reconstructed. The Commissioners had been tried and found wanting, and if they were appointed on the new Board more harm than good would result. Let them take the engineering department, and go to any civil engineers' society, and see if they could find a man of any eminence to agree with the engineering recommendation of the Commissioners. Let them take the medical and scientific department, and they would find that every man of any eminence in the country differed altogether from the Commissioners.

Motion and Original Question, by leave, *withdrawn*.

(3.) 13,930*l.*, Incumbered Estates Commission.

MR. I. BUTT said, he wished to ask whether any provision had been made by the Government for the removal of the Court from its present site, as the effect of its present position was to throw the whole of the business into the hands of two or three barristers, and those the relatives of the Commissioners? Indeed it was common on that account to say it was an Ecclesiastical Court, the business of which went according to the Statute of distributions among the next of kin. It gave rise to suspicions that the business was not done with fairness; suspicious, however, which he could not countenance.

SIR JOHN YOUNG said, he was not insensible to the evils of the present site, and that it was essential to the administration of justice that the Court should be attended by a numerous bar; there were obstacles, however, in the way of the removals, but the question was still under consideration.

MR. W. WILLIAMS said, he considered the whole expenses of this Court ought to be paid out of the sales of estates.

MR. I. BUTT said, he hoped the right hon. Baronet would not think he was pertinaciously pressing him on this subject in asking him to lay on the table the correspondence which had passed between the benchers and the Irish Government.

SIR JOHN YOUNG said, the original proposition of the benchers was to give the land, and the Government to build the Court. The Government, as the building was merely temporary, declined, but offered to find the land if the benchers would erect the building. That they refused, and the last proposal was, that the benchers should give the land for a temporary building. That was under consideration, and thus matters stood.

Vote agreed to.

(4.) 15,000*l.*, Charity Commission.

MR. E. ELLICE said, the public hoped, when they heard of the appointment of this Charity Commission, that sufficient powers would have been conferred upon them by the Legislature to attain the object in view. The greatest care, however, had been taken to avoid giving them the least power beyond the power of inquiry, which power was not so very essential, inasmuch as full inquiry had been made by the old Charity Commissioners. With reference to a case in which he took a great interest—that of a town where 10,000*l.* or 12,000*l.* was bestowed in charity, great part of which might be applied to more useful purposes than at present—he had applied to the Commissioners upon the subject of the state of these charities. An inspector was accordingly sent down, who was now upon that mission, but he could only report exactly what had been reported previously by the Charity Commission as to the state of the accounts and the uses to which the moneys of these different trusts were applied. When a report was so made, the Charity Commission, as now constituted, had only the power to enable the trustees, or other persons in whom the management of these trusts was vested, to apply to the Court of Chancery for amendment of the different scales upon which the charities were now distributed. Now, if these Commissioners could propose no new schemes for the application of these charities, or if it was thought inexpedient to give them the power of deciding abso-

lutely upon these schemes—if they were not to be at liberty to recommend to this House such Bills for the reform and amendment and better application of these charities than that which now existed—it would be better at once to say to the public, “It is impossible for us to interfere with the administration of the Court of Chancery, and therefore you are left in the same difficulties in which you have been placed ever since the Report of the original Charity Commissioners.” He hoped an efficient person would be placed at the head of the Commission.

SIR GEORGE GREY said, that upon assuming his present office, he had resigned his seat at the Commission, believing the duties of the two offices to be inconsistent. He considered that his right hon. Friend in his observations had rather underrated the labours of the Charity Commissioners. There were cases in which they could propose schemes and carry them into effect if sanctioned by Parliament. In the greater number of cases, however, their powers were no doubt limited to inquiry, and to sanctioning schemes to be laid before the Court of Chancery for ratification. He believed that the Report of the Commissioners, which would be laid before Parliament at the commencement of next Session, would show that they had an enormous amount of business thrown upon them which their present staff was inadequate to transact. They had had a great number of applications to inquire into charities from all parts of the kingdom, necessarily involving an extent of correspondence which it was perfectly impossible to conduct with the limited accommodation which was at present provided for them. This had been represented to the Treasury, and a house had been taken for them in St. James's Square. They could not, however, obtain possession of it until this or the next month, and it had been thought better not to make the necessary additions to the staff of the Commissioners until that time. He could bear a willing testimony to the zealous manner in which the paid Commissioners had devoted themselves to the discharge of their duties, but at the same time he must admit that the Commissioners themselves felt that their powers were quite inadequate to the discharge of the duties which were expected from them. It was, however, thought better not to apply to Parliament for any extension of their powers until there had been a year's experience of the working

*Mr. E. Ellice*

of the Commission, but no doubt a measure having this object would be laid before the House next Session.

*Vote agreed to.*

The House resumed.

The House adjourned at half after One o'clock.

## HOUSE OF LORDS,

*Friday, July 7, 1854.*

MINUTES.]—*Sat first in Parliament*—The Marquess of Anglesea, after the death of his Father.  
PUBLIC BILLS.—2<sup>d</sup> Dublin Carriage; Linen, &c., Manufactures (Ireland).

*Reported*—Indemnity; Insurance on Lives (Abatement of Income Tax) Continuance; Poor Law Board Continuance; Turnpike Acts Continuance (Ireland); Union Charges Continuance; Court of Chancery, County Palatine of Lancaster; Holyhead Harbours.

3<sup>d</sup> Court of Chancery, County Palatine of Lancaster.

### OXFORD UNIVERSITY BILL.

Order of the day for the House to be put into Committee read.

House in Committee accordingly.

Preamble postponed.

Clause 1 (Appointment of Commissioners.)

On Motion of the Earl of ELLENBOROUGH, the name of the Earl of Harrowby was placed (in order of his precedence as a Peer) before that of the Earl of Ellesmere.

Clauses 2 and 3 were *agreed to*.

Clause 4 (Empowering Commissioners to require the production of Documents from the Officers of the University, &c.).

LORD BERNERS moved the omission of the concluding words—

“And no oath which may have been taken by any such officer shall be pleadable in bar of any authority of the said Commissioners.”

VISCOUNT CANNING opposed the Amendment, contending that the State had full power to interpose in the way provided by the clause.

On the Question, “That the words proposed to be left out stand part of the clause,” their Lordships *divided*:—Content 77; Not Content 64: Majority 13.

Clause 5 (Providing that on the fourteenth day of Michaelmas Term, 1854, the powers of the Hebdomadal Board shall be transferred to the Hebdomadal Council).

THE EARL OF DERBY proposed to substitute “the fourteenth day of December” for “the fourteenth day of Michaelmas Term.” He trusted that his noble Friend would not object to this Amendment, which would involve only a short postponement, when he called his attention to the

fact that the day named in the Bill as that upon which the constitution of the University was to undergo so complete a change, and the transfer of the authority to the new governing body was to take place, was not only in the middle term, but was the very day of the public examinations. It would be very inconvenient that so great a change should take place at that precise time, and the inconvenience would be aggravated by the fact that at this time the annual accounts of the University and of the several colleges were in the course of being made up, and the attention of the authorities would consequently be fully occupied. On the contrary, the day which he proposed to substitute would be liable to no such objections, and would have this further advantage, that the members of the new Board would have leisure, during the Christmas recess, to make themselves familiar with their duties, and with the principles upon which they were to act. He wished, further, to call his noble Friend's attention to the manner in which the Bill, as it at present stood, proposed to bring the new Board into operation. The transfer of authority to the Hebdomadal Council was to take place, as he had said, on the "fourteenth" day of Michaelmas Term. By a subsequent clause, the Hebdomadal Council was to be elected on or before the fifteenth day of Michaelmas Term; and although it might be said that an election which was to take place on or before the fifteenth might well be had before the fourteenth, there was another clause (the 17th) which disposed at once of this reply, because by that clause it was enacted that the Congregation, which was the elective body by which the Hebdomadal Council was, in part at least, to be chosen, was only to be constituted "on" and "after" the fifteenth day of Michaelmas Term. So that the elective body was to be formed "after" the fifteenth day of Michaelmas Term, to elect a body which was to be formed "upon" the fifteenth, and which was to exercise certain powers that were to be transferred to it upon the fourteenth. Such a jumble of dates it was impossible to reconcile; and, if his noble Friend would do him the favour to follow him through his Amendments, he would see that he proposed, with reference to this part of the Bill, so to alter the wording of the 5th clause, and the collocation of several others, as to bring the provisions of the Bill into harmony with each other. It would be ob-

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served that in the 7th, 8th, and 9th clauses there was mention made of triennial elections, but it was not till they came to the 12th clause that one word was given sanctioning the triennial election. He proposed, in Clause 5, to omit "the fourteenth day of Michaelmas Term," and insert "on or before the fourteenth day of December;" and by the insertion of certain other words which he proposed, the clause would read thus:—"Upon or before the fourteenth day of December, 1854, there shall be elected in manner hereinafter mentioned a Council, which shall be called 'the Hebdomadal Council,' to which shall be transferred, immediately upon the election thereof, all powers, privileges, and functions now possessed or exercised by the Hebdomadal Board of the said University." His proposal then was to make Clauses 11, 12, 13, and 14 follow Clause 6, and, in that case Clause 10 might be omitted altogether, as the first part of that clause would be provided for in the 5th. He should not give the House the trouble of dividing upon merely technical questions like these—he merely submitted them for his noble Friend's consideration.

VISCOUNT CANNING readily concurred in the proposed rearrangement of the words of the clause, which he admitted would be an improvement; and with respect to the collocation of clauses, he was also willing to accept the suggestion which had been made. But with respect to the postponement of the day upon which the new constitution should come into operation, he was sorry to say that he was unable, upon the part of the Government, to assent to it, because he thought it desirable that when a measure of this great importance had been deliberately sanctioned by Parliament, there should be no unnecessary delay in carrying its provisions into effect, and that the existing governing body, which was certainly in some degree condemned by the mere fact of the passing of the Bill, should not continue in power longer than was absolutely necessary. He did not think that the examinations, or the college accounts, to which his noble Friend had referred, would absorb so much of the attention of those whose duty it would be to bring the provisions of the Bill into operation, as to justify his giving his consent to so long a postponement as six weeks.

Amendment put and *negatived*.

Clause 1, with the several Amendments, *agreed to*.

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On Clause 6 (Composition of the Hebdomadal Council),

THE EARL OF ELLENBOROUGH said, there were one or two matters connected with this clause to which he wished to call the attention of the House before the noble Earl (the Earl of Derby) moved his Amendments. It was usual in Bills to find the interpretation clause either before or after the enacting clauses, but in this case it was placed in the very middle of the Bill, and he had found it with some difficulty. He saw that the word "professor" was declared to include "public readers, prælectors, and assistant or deputy professors." Now, he understood that public readers and prælectors were gentlemen who performed the same duties as professors, and therefore with respect to them he had no objection to make; but he understood that assistant and deputy professors were appointed by the professors themselves. Now, under the 6th clause, all professors (including therein, of course, assistant and deputy professors) were to have votes in the election of members of the Hebdomadal Council; and as a professor might have fifty "assistants," although he could only have one "deputy," a gentleman might multiply himself by fifty, by creating as many votes, which would, of course, all be given to his own friends. He thought this ought to be attended to, and security taken in the Bill against the possibility of any such abuse. But, besides this, there was an inaccuracy of language in the clause, which might be very inconvenient. It was provided, for instance, that the Hebdomadal Council should include "six heads of colleges or halls," who should be elected from among themselves, not by "the," but by "such, heads of colleges or halls," the only heads of colleges or halls previously named in the clause being the six who were to be so elected. Therefore, any six of these gentlemen might elect themselves. It was the same with regard to the professors. What followed? "One other such professor separately elected by the professors," was perfectly unintelligible. He believed the explanation to be, that the words "of divinity," or "of theology," had originally stood in the clause, but, being objected to in the House of Commons, had been struck out, leaving the other words untouched, and so involving the absurdity which he had pointed out; in one part of the clause the word "select-

ed" was used, and in another "elected;" he recommended that verbal alterations should be made, so that the same word might appear throughout the clause.

The EARL OF DERBY moved to insert "the Chancellor," before "the Vice Chancellor," as a member of the Hebdomadal Council. The Government, in framing the clause, appeared to have forgotten the very existence of the Chancellor of the University of Oxford, and had proceeded to constitute the Council, and afterwards the Congregation, making the Vice Chancellor a member of both, but omitting the Chancellor altogether. It then appeared to have occurred to them that there was such an officer, and, moreover, that he had a right, by virtue of his office, to preside over the meetings both of the heads of houses and of Congregation. Having, however, framed these clauses without mentioning the Chancellor at all, they had not thought proper to alter them, and had therefore introduced a new clause, by which they proposed to provide that the Chancellor should be a member both of the Hebdomadal Council and of Congregation, and have a right to preside over both. He thought that the omission should be supplied in the clause which was now under consideration, and it was with this view that he proposed his Amendment to the House.

VISCOUNT CANNING assented to the Amendment, but as a proof that the Chancellor of the University had not been forgotten by the Government, reminded his noble Friend that the Bill as originally framed gave power to the Chancellor to appoint two nominees of his own, one a professor, and the other the head of a house, as members of the Hebdomadal Council. His noble Friend was better acquainted than he was with the reasons which had led to the removal of that particular provision. With respect to the suggestion made by the noble Earl opposite (the Earl of Ellenborough) in reference to the professors, he thought the difficulty would be met by the introduction of a few words, either into this clause or into the interpretation clause. In the noble Earl's criticism on the grammar of the clause, he must say he entirely concurred.

LORD WARD moved to omit the 6th clause altogether, and to substitute the following in lieu of it—

"The Hebdomadal Council shall consist of the Vice Chancellor, the proctors, six heads of col-

leges or halls, six professors of the University, together with six members of the Convocation of not less than five years' standing, to be elected by the Congregation hereinafter mentioned of the said University, and the Vice Chancellor or his deputy shall be president of such Hebdomadal Council."

The noble Lord said, that, in asking their Lordships to accede to this Motion, it was not necessary that he should refer to the existing state of Oxford, because it was admitted on all hands — although not to the same extent — that some great change was necessary in the present constitution of the University. It was proposed that that change should be carried out by giving her a free representation, by which her governing body should be elected; and, if that were the case, he could only say that, instead of interfering with constitutional authority, they would be giving her full scope in the exercise of her freedom for the first time. If the result of following out her constitution, as it had hitherto existed, had been a very narrow governing body, and very little confidence and co-operation between them and the resident members of the University, attention would very properly be given to anything that would bring about that co-operation and restore that confidence. It was proposed by the clause which now stood in the Bill that six heads of houses should be elected by heads of houses, and six professors by professors; and that six independent members of the University should be elected to the Hebdomadal Council by the Congregation. He would leave their Lordships to judge whether the meetings of such elements as these would be likely to bring about the confidence that was desired. He could bring no stronger argument in support of his opposition to the clause than the fact that the heads of houses felt that it would be so invidious a task to select six from their whole number, that they were understood to have agreed that their quota should be furnished by seniority. If this were the case, and if the professors should take the same view, was there likely to be that unity of action on which the prosperity of the University depended? It was proposed that Congregation should constantly have a veto on what the Hebdomadal Council might put forward for the amendment of the Statutes of the University; and it really came to this, that if the heads of houses elected by themselves, and the professors elected by themselves, should pass anything which was unfavourably regarded by the members chosen by the Congregation, or

by any other constituency upon which Parliament might eventually decide, Congregation, with its veto, would support its own members, and there would be nothing like the unity of action or the confidence and mutual co-operation which they were anxious on all hands to bring about. He thought the action of the governing body would be very much impaired by the principle of sectional election which had been introduced into the Bill. He was anxious that the great principle of representation should be granted as freely and as fully as possible; and he had therefore come forward to propose that the original proposition in the Bill should be restored, and Congregation have the choice of all the members of the Council. He should be still better pleased to see no restriction placed upon the proportions in which they should be chosen from each class; he believed that full confidence might be placed in an educated constituency, such as the proposed Congregation would be; he was sure that no narrow jealousies would interfere with their selection, and he had no doubt that, if their choice were perfectly free, they would see that among the heads of houses were to be found the men most qualified, by position and character, and leisure and ability, to take part in the government of the University. This, however, was his individual opinion; it did not appear to come within the scope of the Bill; and, although he thought that such a plan would better carry out the principle of representation, he should confine himself at present to a proposal to place the matter on the footing contemplated by the Government, being assured that the effect of it would be to make the elective system more complete, and the governing principle more strong than the clause which now stood in the Bill.

THE EARL OF DONOUGHMORE understood that the object of the noble Lord was to alter the mode of election to the Hebdomadal Council, and not the composition of that body. Now it should be borne in mind by the House that they had, he would not say conflicting interests, but conflicting opinions to consider. The heads of houses might be supposed to represent the colleges; the professors the professorial, as opposed to the tutorial plan of education; and the six independent members the general interests and opinions of the University. It appeared to him, therefore, most just that each of these separate bodies should choose its own representa-

tives. If the noble Lord had proposed that the whole governing body should be elected by the Congregation, without any restriction as to the classes from which they should be chosen, he could have understood, although he should not have agreed with him; but he admitted that the several elements should be represented in the governing body in certain proportions, although he would not consent that each element should choose its own representatives. He rejoiced that the original scheme had been altered, and if the Amendment were pressed to a division he should vote against it. The noble Lord had had some experience of the University of Oxford; he believed he had resided there for some time; and he could not help feeling that there had appeared throughout his speech a feeling of hostility towards the heads of houses. He did not know what the cause of that hostility might be, but he did hope that, whatever opinions the noble Lord had formed of the heads of houses while at the University, they would not induce him to vote on the present occasion against their having their fair and just share in the government of the University.

THE DUKE OF NEWCASTLE interposed for the simple purpose of entreating their Lordships that anything like personality might be avoided in the present discussion. The noble Earl, the leader of the party opposite and the Chancellor of the University, warmly as he felt upon this measure, had set a most admirable example both last night and to-day, and he trusted that on both sides of the House that example would be implicitly followed. If the noble Earl who had just sat down had belonged to the University of Oxford, he would have avoided the observations he had made, and to which he hoped his noble Friend would not reply. However long he had remained at Oxford, he was sure that the Motion he had made had been made with a sincere desire to benefit the University to which he and all her members were attached, and not from any feeling of hostility to any class whatever. As regarded the Amendment itself, he apprehended the argument of his noble Friend was conclusive on the point, and he should certainly support it. The noble Earl the Chancellor of the University said it was most desirable that the body best able to judge of the merits of individuals should be the elective body, and if the Amendment the noble Earl was about to move, to insert "Convocation" instead of "Congregation,"

*The Earl of Donoughmore*

were adopted, there would be something in the objection. But as he hoped the House would insist on retaining Congregation as the elective body, the argument of the noble Earl would fall to the ground, because Congregation, consisting of the residents of the University, would be better able to form an opinion of the merits of individuals than Convocation, and quite as competent to form that opinion as the heads of houses and professors themselves. Nothing could be so invidious as to call on the heads of houses to elect six members from their own body. To make a selection implied a slight on those not selected, and the ordinary course would, therefore, be to elect the six senior heads of houses. He hoped the Amendment of the noble Earl the Chancellor of the University, to substitute Convocation for Congregation, would not be agreed to; and he was prepared to say, on behalf of the Government, they would support the Amendment of his noble Friend (Lord Ward).

THE EARL OF HARROWBY said, he should oppose the Amendment, for he thought that a third interest ought not to have the power of electing the representatives of the two other interests.

THE BISHOP OF OXFORD objected to the words as they stood in the Bill, because the effect would be to send into the Hebdomadal Council three bodies of men under the impression that they were representing different class interests, instead of the common interests of the University. He thought it of extreme importance that this Amendment should be adopted, for the introduction of men who believed themselves pledged to the electors to support their particular interests must introduce elements of dissension into the comparatively small body of which the Hebdomadal Council would be composed. In his opinion that was the vital objection to the clause as it stood; but there were several subsidiary objections. He was not at all certain, for instance, that the heads of houses would necessarily exercise the best discretion in the selection of their own body. They knew, that where men constantly met on social and other occasions, as the heads of houses did, that other grounds of estimation came into operation, besides business habits and enlarged views of the interests of the University. Men with no such qualification for the Hebdomadal Council, but with other qualifications giving them a good standing in the narrow circle of the heads of houses,

would be elected, and thus influences of the wrong kind would operate, if the members of this small body were to elect out of themselves their own representatives; whereas the body of Congregation, as public men, would have opportunities of testing the powers of the heads of houses as men of business; and seeing how far they were men of good sound practical judgment in the common questions which they discussed together, apart from these social prejudices, Congregation was much more likely to exercise a dispassionate, and therefore right judgment, than those who were constantly meeting together in other relations than those of business. Another reason why the Amendment should be adopted was, that they would not give the heads of houses proper weight in the common body, if they put them in as their own nominees, instead of as representatives of the University. They knew perfectly well that it was quite impossible for nominees of the Crown, or of any other particular party, to contend upon an equality with the nominees of the people chosen by free suffrage; and that observation applied pre-eminently when those elected were their own representatives. All propositions coming from the heads of houses so elected would come with exceeding disadvantage on the common body;—they would not be considered on their own merits, but as heads of houses questions. They would, therefore, unless this Amendment were adopted, weaken the legitimate influence of the heads of houses in the common body, as well as introduce elements of dissension. One other consideration was, that, unless they adopted the Amendment, they would take away from the heads of houses a legitimate right to interfere in the election of professors and other representatives of Congregation; it would be said the heads of houses had exhausted their proper powers when they had elected from their own body their own representatives, and that interference by them in the elections of professors was similar in kind to interference by their Lordships in the elections of members to the other House of Parliament. If Congregation elected, the heads of houses would have that legitimate influence in the common election which depended on their standing, their acquaintance with business, and their pre-eminence in the University. He thought, therefore, that unless they adopted this resolution, they would necessarily introduce elements of

dissension; they would centralise temporary antagonism, and would start with a certain jealousy between different classes. If they elected the governing body properly, in a very short time it would represent the common University; but if they sent to the Hebdomadal Council the exponents of several class interests, they would fix and perpetuate in the University these temporary dissensions, which otherwise he hoped would in a short time die out of themselves.

THE EARL OF POWIS considered that whether elected by Convocation or Congregation, the dominant party in the University would prevail, and leave the minority of resident members no weight or representation in the governing body. If they wished to secure due weight to each of the different elements in the University, they must adhere to the clause as it stood. The governing body was an executive body for the discipline of the University, and he should be sorry to see that discipline handed over to the majority, and so involved in the party politics which might temporarily prevail.

THE EARL OF DERBY observed, that the University of Cambridge, when it had taken the question of the constitution of its governing body under its consideration, had come to the determination, not that the Senate should be composed of different classes, in the manner now proposed with regard to Oxford, but that it would be for the benefit and advantage of the University that each of those classes should be represented by members themselves. Therefore, in favour of the proposition as it came from the other House, they had the deliberate opinion of the University of Cambridge.

On Question, their Lordships *divided*:—  
Content 103; Not Content 87: Majority 16.

*Amendment agreed to.*

THE EARL OF DERBY desired explanation of the meaning of the words "six professors and one other professor separately elected."

THE DUKE OF NEWCASTLE explained, that it originally stood "and one Professor of Theology." The words "of theology" having been struck out in the other House, he would insert "seven" instead of "six," and omit the words "and one other professor separately elected."

THE EARL OF DERBY moved the omis-

sion, at line 37, of the word "Congregation," in order to substitute for it the word "Convocation." The noble Earl said the Government professed a desire to introduce the representative system into the governing body of the University, and they objected to legislative and administrative functions being intrusted to a single body of the heads of houses. He hoped the alteration would work more advantageously for the University than the system which had hitherto prevailed; but he confessed he thought the loss of men of great experience and knowledge accustomed to the government of their own college, and constantly engaged in transacting the business of the University, would be a great loss to the Hebdomadal Council. He was sorry the suggestion both of the Commissioners and of the University had not been adopted—to have two Boards, one constituted of the present Hebdomadal Board, comprising representations of every body in the University, and the other of the members and professors acting separately. The Government, however, had decided that there should be but one legislative and governing body; and then the question arose, by whom should that body be elected? They professed a desire to get rid of the control of the comparatively small number of which the Hebdomadal Board was composed, because they said the principle of representation was not fully carried out in the original constitution of the Hebdomadal Board; and yet by this Bill they proposed to exclude from all control, all supervision, all check over the different classes of which the governing body was to be composed, something like nine-tenths of the whole members of the University. He could not but think that was a dangerous principle to introduce, and one that would work injuriously to the University. He did not mean to say that with regard to a great portion of the questions which would arise, the residents in the University, as a body, would not carry with them, as they ought, from their superior knowledge of the affairs of the University, considerable weight; but to deprive Convocation of those functions which properly belonged to it, of representing its own feelings and opinions, and to hand over the whole government, and the selection of the body that was to administer it, to a comparatively small number of residents—of 250 or 260 persons—looked to him very much like a scheme for putting

*The Earl of Derby*

the whole control and management of the University—for placing the paramount power—in the hands of one particular party. Those 250 or 260 persons might easily be controllable by any party who obtained influence with a majority; but no such influence, no such predominant power, could be exercised over such a body as Convocation, consisting of 2,000 or 2,500 members. Therefore, while professing to support the representative principle, it was proposed practically to disfranchise nine-tenths of the members of the University, and to confine all legislative and executive power to the remaining one-tenth. Having stated his views yesterday at considerable length, he should be sorry now to abuse the indulgence of their Lordships; but he must say he entertained a strong opinion that they were now proceeding on the principle they condemned, of handing over Oxford to be governed, not by fair representation, but by a comparatively limited oligarchy, by men (without speaking disrespectfully of them) whose habits of life, views, and ideas, were encentred in the University, who had had little experience or converse with the world, and whose views consequently were of a more contracted character than those of members spread over the whole country. He thought they were vesting in that body—not the best for the management of a great University—all the power to the exclusion of men who had conferred high distinction upon the University, who had done honour to it and to themselves during their career, and who, from having mixed with the world, were able to take a more enlightened and comprehensive view of what was for the advantage of the University than those who were confined within its walls—he should move the substitution of "Convocation" for "Congregation," for the purpose of vesting the elective power in what was properly the constituency of the University, to which the election of its Parliamentary representatives was confided, and to which, therefore, they ought also to confide the choice of those who were to exercise the governing power of the University.

VISCOUNT CANNING would state as shortly as he could, why it was impossible the Government could accede to the Amendment proposed by the noble Earl. It was charged against the Government that they had receded from the principle of representation—that, having professed to get rid of a small body, they had con-

fided the interests of the University to what the noble Earl called a comparatively limited oligarchy. In the first place, it was not the profession or wish of Her Majesty's Government so much to get rid of a small body as the governing body of the University, as to get rid of a body, small, he admitted, but worse than small, inasmuch as it was composed of persons whose previous career and position disqualified them from having or obtaining the necessary knowledge of the feelings and requirements of the University over which they were called on to preside. The noble Earl spoke of Convocation being disfranchised by this clause; but it should be remembered that Convocation had not, at present, any power at all analogous with that which the Government were condemned for placing in the hands of Congregation. If the noble Earl argued that they were untrue to the principle of representation in not giving the elective power to Convocation, he did not see very well how the noble Earl could refrain from urging on Parliament and the country the adoption of universal suffrage. What body could be so fit to decide on questions of teaching and discipline as the great body of tutors, professors, private tutors, and residents, who, being constantly at Oxford, had seen, felt, and heard what was wanted in the University; whilst, on the other hand, what body could be more unfit than a number of persons summoned from all parts of the kingdom, and almost entirely ignorant of those requirements? He thought everybody would admit that it was a great disqualification for a person, however intimate his connection with the University might at one time have been, or however distinguished his academical career, to feel, when called upon to vote either upon questions of a general nature, or for the election of members to sit in the Hebdomadal Council, that his connection with the University had been, if not severed, at all events very much loosened, and that several years had elapsed since he had taken an interest in the internal affairs of the University. Perhaps, when he visited the University for the purpose of giving his vote, he would find that such a change had come over the scene that it would be difficult for him to discover among the residents of the University any of whom he had personal knowledge; and probably the noble Earl himself would admit, that if he had been summoned to Oxford before he was elected to the high and distinguished office which he at present held in the

University, and had been asked to vote for members of the Hebdomadal Council, he would in all likelihood have given his vote rather according to the advice of those in whom he could confide than from his own judgment. It was impossible that men living in London, or buried in country vicarages, could know the merits and qualifications of all the different residents in the University, and if they were invested with the power of voting for members of the Hebdomadal Council, they would either vote in entire ignorance of the merits of the candidates, or be compelled to place their votes in the hands of those who possessed that kind of local information which they wanted themselves. The noble Earl had spoken of Congregation as a body which would obstruct, rather than facilitate the legislation of the University. He demurred entirely to that definition of the mode in which Congregation would discharge its functions. If the present scheme worked well, the result, in all probability, would be that, as soon as Congregation had proved itself capable of maintaining the internal affairs of the University, there would be very little disposition on the part of members of Convocation to take the trouble of presenting themselves at Oxford again and again, for the purpose of giving their votes upon matters which they would find managed to their satisfaction by those resident on the spot. On the other hand, if the scheme worked ill, and if Congregation in performing its duties did not give satisfaction to the University at large, the result would be the substitution for the mode of proceeding indicated in the Bill, of something like the organisation which existed in Parliament, where one party espoused one cause and another party espoused another cause, and where each made an appeal for the votes of its friends, not for the purpose of giving countenance to any particular men or interests, but because it was thought that one side of the question was on public grounds more deserving of support than another. In short, he thought that in the event supposed, the members of Convocation, instead of being appealed to solely for the purpose of supporting particular candidates and particular local advantages, would be brought together on what he might call questions of public principle. For these reasons, he thought that the scheme embodied in the Bill was far better than that proposed by the noble Earl, not only with reference to the election of the

Hebdomadal Council, but also with respect to all matters in which Congregation would be called upon to act.

THE EARL OF MALMESBURY said, that parties in the House appeared to have changed sides, for the speech which the noble Viscount had just made would have been in place if it had been delivered in that House a quarter of a century ago in opposition to a measure of Parliamentary reform. He understood that one of the chief complaints against the University was, that it was not liberal and enlightened enough—that the sun of modern times did not shine upon it—that it was in the hands of men of monkish manners, who were buried within its walls in a sort of Cimmerian darkness. Well, the proposition of the noble Earl beside him was, that the voice of between 2,000 and 3,000 persons should be heard in the government of the University, and that those gentlemen should be invited to interfere in its internal arrangements. To that proposal the noble Viscount and the Government objected, upon the ground that it was analogous to universal suffrage. He thought that few of their Lordships would oppose the principle of universal suffrage in the election of Members of the House of Commons, if they could be assured that all the male adults throughout the country were as well educated as the members of Convocation. The noble Viscount was afraid of men educated in the same University as himself, and put them in the same category with that unfortunate class of persons who were so much abused the other night—the drivers of dog-carts. The noble Viscount said that the members of Convocation lived without the walls of the University, and therefore could have no personal knowledge of the merits and qualifications of those who were best fitted to manage its internal affairs. Because, however, a member of Convocation might have left the University for several years, that was no reason why he should not know the merits and qualifications of the resident members. He was sure that there were many persons now residing at Oxford, and who had lived there ever since he took his degree, whose qualifications he thought he was perfectly justified in saying were such and such; and even in that House, he had been happy to recognise among the right rev. Prelates men whom he highly esteemed at Oxford, and upon whose capability to discharge such duties as would devolve upon the members of the Heb-

domadal Council he was perfectly able to pronounce. If the Government were sincerely desirous to make such a reform in the University as would be entitled to the name of liberal, and to admit within its walls a little sunlight from that world to which the great mass of the residents were comparative strangers, they would not hesitate to adopt the Amendment proposed by the noble Earl, to which he, for one, would give his cordial assent.

THE BISHOP OF OXFORD said, that the noble Earl who had just sat down appeared very much to misunderstand both the effect of the clause under discussion, and the grounds upon which it was supported. In the first place, the clause did not give the government of the University to Congregation, but simply the power of electing the members of the Hebdomadal Council, which itself was after all very little more than the executive body of the University, because everything must ultimately come before Convocation, and Convocation might say "aye" or "no" upon it. The power of electing the members of the Hebdomadal Council was given to Convocation, not because, as had been stated by the noble Earl, Convocation was not thought fit to exercise it, but because, of the two bodies, Convocation was the less fit. What the Hebdomadal Council would have to attend to, was the daily business of the University; and who, therefore, were more likely to make a proper selection than those who, being resident in the University, knew its wants, and the men best qualified to manage its internal affairs? He believed, moreover, they would find that the men who were most subject to sudden changes of feeling, were not the resident members of the University, but those who resided in distant parts of the country, and who were, therefore, compelled to form their opinions upon the representations of other parties, and to take upon trust that which they ought to have of their own knowledge. The noble Earl who spoke last said, that if the power of election was confined to Congregation, they would by that means shut out all that modern illumination which he would like to see introduced into the University. Now, it was erroneous and unjust to assert that the great body of the resident members of the University had any want of what the noble Earl called the sun of modern times. Everything that was going on around us would contradict altogether such an imputation. He be-

*Viscount Canning*

lieved that if they looked to the organs of public opinion in this metropolis, they would find that those organs had recourse, for all their ablest productions, to the resident members of the University of Oxford. That was a very remarkable fact, and it showed that, as a class, the resident members of the University were not in that state of monkish ignorance of the world which had been attributed to them. On the other hand, the great bulk of those who formed Convocation were clergymen residing in distant parishes, who, just because they attended to their proper duties, had no leisure to look abroad and keep themselves abreast of current opinion. He thought, therefore, that they might safely leave to Congregation the power of electing the members of the Hebdomadal Council.

THE EARL OF DERBY said, that the statement of the right rev. Prelate, to the effect that all Statutes must come before Convocation at last, was not altogether accurate; because it was expressly provided in the Bill, that Congregation should have the power of putting its veto upon the transmission of any Statute from the Hebdomadal Council to Convocation, however acceptable it might be to the University at large. The Bill, in fact, placed the whole management of the University in the hands of the 250 persons who were to form Congregation, thus constituting a resident oligarchy of a very undesirable and injurious description, and completely setting aside the declaration of the Government that they desired to extend as widely as possible the representative system in Oxford. The right rev. Prelate argued that Congregation was the fittest body to elect the Hebdomadal Council, because the resident members of the University, in consequence of their constant and familiar intercourse with each other, knew who were best qualified to manage the internal affairs of the University, while the right rev. Prelate used the same argument against the proposal to confer the power upon the heads of houses.

THE BISHOP OF OXFORD begged the House to remember that, when he spoke of the heads of houses, he referred to the dangers arising from the social intercourse of twenty-five gentlemen separated from the rest of the University by their position, and probably meeting with each other many times in the week. There was no analogy between such a body and 250 gentlemen who probably never met in social intercourse.

THE EARL OF DERBY said, the right rev. Prelate seemed to suppose that there was some virtue in the number 250. He objected to the heads of houses because they were too few, and to the members of Convocation because they were too many, but he thought that the 250 persons forming Congregation constituted precisely that body to which their Lordships might safely intrust the management of the University.

THE BISHOP OF OXFORD remarked, that if the 2,500 members of Convocation were all resident, he would allow them to vote for the Hebdomadal Council; but what he objected to was, that every year a host of persons residing in distant parts of the country should be brought up to out-vote the resident members of the University.

On Question, their Lordships *divided*:  
—Content 72; Not Content 99: Majority 27.

Clause *agreed to*.

Clauses 9 and 10 *agreed to*.

Clauses 11 to 14 *agreed to*, with verbal Amendments, and ordered to follow Clause 6.

On Clause 15, which enacts that the Vice Chancellor shall make a register of the Congregation, and also regulations respecting the Hebdomadal Council,

THE EARL OF DERBY objected to the latter words of the clause, which were—

“And if the Vice Chancellor fails to comply with the provisions of this section to the satisfaction of the Commissioners, the Commissioners shall thereupon carry the same into effect, and thereupon make such regulations in respect of the matters aforesaid as they may think fit.”

He would put it to Her Majesty's Government, whether it would not be more seemly to omit those words? It was provided by the clause, that certain duties should be performed by a certain officer, and if he did not perform them somebody else should perform them. He objected to the phraseology of the clause, which he thought unseemly, and such as Parliament would not apply to a parish overseer.

VISCOUNT CANNING had no objection to expunge the words “to the satisfaction of the Commissioners;” but considered the enacting, as part of the clause which gave the Commissioners power to carry out the provisions of the section, in the event of the Vice Chancellor failing to do so, necessary to the efficient working of the Act.

The words were accordingly *struck out*; clause, as amended, *agreed to*.

Clauses 16 to 22 *agreed to*.

On Clause 23, regulating the election of the Hebdomadal Council.

THE EARL OF DERBY wished to call the attention of their Lordships to this clause, the effect of which was to introduce a new principle, that of the representation of minorities. This was a principle that had been introduced for the first time into a Bill which was laid before the other House of Parliament (the Reform Bill), and which he believed was generally condemned at the time, though the Bill was withdrawn before any formal opinion could be taken with regard to it. His own opinion was, that in all bodies whatever, the minority ought to be subjected to the majority; otherwise he thought that those noble Lords who agreed with him, and who formed a considerable body in this House, ought to have at least one of their propositions carried for every two that were carried by the Government. He admitted, however, that there was some reason in the adoption of this principle in the other Bill he had referred to, because there it was assumed that the elective body consisted of two parties, and that the object of the one party was to subdue all expression of opinion on the part of the other. But that argument could not apply here, for there could be no such organisation or division of parties in the body of Congregation which they sought to establish, so as to render it necessary that they should deprive the members of Congregation of their right to give their votes for the full number of the members of the Hebdomadal Council. He did not mean to move any Amendment, but he thought it was his duty to call their Lordships' attention to the introduction of this new principle.

THE DUKE OF NEWCASTLE thought the noble Earl could not have paid attention to the discussions on previous parts of this Bill, or he never would have made those objections. They had been told that the great danger was, that the Congregation would elect the Hebdomadal Council entirely from one party in the University, which would thus obtain an unfair preponderance. He did not himself think there was any danger of such a result; but the provisions of this clause, by which each member of Congregation could only vote for four out of six members of the Hebdomadal Council, would effectually obviate the danger which was apprehended, however improbable that danger might be. The noble Earl had compared this provi-

sion with a proposition he had suggested, that the minority in that House should carry one measure for two carried by the majority. But surely there was no parity between the two cases. In the one case they were required to discuss provisions of a legislative nature, where the decision of the majority must be final; in the other, they were providing for the composition of the governing body, where it was desirable that various opinions might be heard. It was precisely the same case in that Bill, which the noble Earl said—he believed very erroneously—was generally condemned in the other House of Parliament. He believed it was at first misunderstood, but when it came to be understood it was very generally appreciated, and would, he believed, have been still more highly appreciated, if it had ever come on for discussion. So far from the principle being condemned in the other House of Parliament, he might state that the principle, as embodied in this clause, had never had a single objection raised to it.

LORD MONTEAGLE said, it was clear that the noble Earl did not understand the operation of this principle, for it was never intended to convert the minority into a majority. The consequence of adopting this principle, both in the present Bill and in that which had been referred to, was to take care that the minority should be fairly represented. That was the sole effect of the clause; and surely nothing could be fairer than the principle that the minority, though it did not govern, should at least be heard.

A NOBLE LORD suggested that, as the clause stood, a member of congregation might give his four votes *in cumulo* to one candidate.

VISCOUNT CANNING said, that that might be obviated by adding a proviso, that no member should give more than one vote to one candidate.

Amendment made accordingly; Clause *agreed to*.

On Clause 24.

THE EARL OF POWIS moved an Amendment to the effect, that it should be lawful for the Convocation of the University to provide, if it should think fit, that votes might be given either personally or by proxies, being members of Convocation, authorised by writing, according to the form to be annexed to the Act, or in a form to the like effect, under the hand of the member of Convocation nominating such proxy, at any election of a Chancellor

of the University or of a burges to serve in Parliament. It was agreed on all hands, that the members of Convocation should have the fullest liberty to express their opinions upon the questions that came before them, and there were few questions that were of more consequence than the election of these three great officers, who might be said to represent the University in the two Houses of Parliament. It might even be said that these officers, represented the interests of the Church, and were the organs of the Church; for the Convocation had for the last 150 years been silenced, while by express enactment the clergy were forbidden to sit in the House of Commons. If, then, it was desirable that the members of Convocation should express their opinions at all with respect to these three great officers, every facility should be given for the expression of that opinion, without calling upon the members to travel up from Northumberland or Cornwall for the purpose. In the East India Company the proprietors were allowed to vote for directors by power of attorney, and in the various other public bodies voting by proxy was allowed. There would, therefore, be no apprehended, no difficulty in giving the same permissive power in the present instance, especially as the selection was not to be made out of a crowd, but from among two or three individuals who were known long beforehand. It might be said that this was interfering with the right of voting for Members of the other House of Parliament. All he could say was, that if their Lordships adopted his Amendment, the other House would still have the power of saying aye or no to it.

VISCOUNT CANNING concurred in the general principles which the noble Earl had expressed, and to a certain extent the views of the Government were the same as the noble Earl's—namely, as to the power of using proxies in the election of the Chancellor of the University. As to this power being extended, however, to the election of the two burgeses of the University to serve in Parliament, he did not think their Lordships would act wisely to deal in an arbitrary manner with such a great electoral innovation—one which might involve questions of vast magnitude and raise consideration for grave discussions, not only in their Lordships' House, but in the other House.

LORD CAMPBELL would enter the strongest protest against the Amendment

of the noble Earl, as far as related to the voting for the two burgeses, as highly unconstitutional. It was always supposed that the electors attended at the hustings to give their judgment as to the gentleman who was the fittest person at the moment to represent them. There might be a change in the aspect of affairs between the vote and the giving of the proxy, which might render the first vote highly improper. He should, therefore, oppose the Amendment as a great constitutional innovation.

THE EARL OF CARNARVON also opposed the clause, because, though he did not doubt that the University of Oxford was of all constituencies the most deserving of this privilege of voting by proxy, yet he could not see how, if the privilege were once accorded to them, it could be refused to others.

After a short discussion, which was not audible, Earl POWIS withdrew that part of his Amendment which related to voting for burgeses to serve in Parliament. The Amendment was then agreed to. Clause, as amended, agreed to.

On Clause 27, which empowers any member of Convocation, of standing and qualification to be hereafter fixed by University Statute, to obtain a licence from the Vice Chancellor to open his residence, if within one mile and a half of Carfax, as a private hall for the reception of students,

THE EARL OF DERBY said, that this was a most important portion of the Bill; and without troubling their Lordships with a repetition of what he had said last night in reference to this clause, he would briefly recapitulate the objections which he entertained to the introduction of private halls within the University. With regard to the poorer class of students, for whose benefit they were professed to be intended, he believed that, so far from being attended with benefit, they would prove positively injurious; and their tendency would not be to give poor students an economical education compared with what they would receive at the colleges. And here he must say that he found, with respect to the cost of education in the colleges, that he had greatly exaggerated it in his observations last night. He repeated, however, his conviction that the tendency of private halls would be to increase the expenses of board, maintenance, and education, compared with the rich colleges, those which had considerable

endowments, and those which were frequented by the wealthier class of students, because their contributions went in aid of the education of the poorer students. Now, if this clause came into operation, it would certainly tend to the opening of private halls for the benefit of the rich, and thus inflict injury upon the poor. Besides, it would be impossible for the poorer students at private halls to receive so good an education as in the colleges, inasmuch as all they could receive must come from the head or the master of the establishment, who could not be competent to give them instruction in every branch of learning. But the great and principal objection which he felt to private halls, independent of their failure to effect the object of a good and cheap education to the poorer classes of students, was the fact that they would absolutely destroy the discipline of the University, and supersede the control to which students were now subjected. These and some other views he had already stated at considerable length; and as he did not wish to repeat them, he would not trouble their Lordships further than to say that as this clause was regarded unanimously by the whole University, resident and non-resident, as a most dangerous and pernicious innovation upon its constitution and government, he should feel it his duty to take the sense of the House upon it.

THE MARQUESS OF LANSDOWNE admitted that the subject was one which involved the most important results, and therefore deserved the most grave and serious consideration. He was of opinion that their Lordships should adopt it mainly, because its scope and policy was to extend the benefits of the University. At the same time, he could not bring himself to concur in the apprehensions felt by the noble Earl as to its injurious effect upon the discipline of the University. On a former occasion the noble Earl connected it, in degree, with an equally important clause in the Bill, to which, however, he was disposed to give his assent—that which would have the effect of admitting Dissenters to matriculation and to obtain all the distinctions and benefits which the University had to bestow. But the great apprehension of the noble Earl was that these halls would have the effect of altering the general tone of the University injuriously, instead of promoting its efficiency. Now, he (the Marquess of Lansdowne) had looked carefully into the

*The Earl of Derby*

subject since he had heard the expression of these apprehensions; and after the best attention he had been able to give to it, he was totally unable to conceive upon what grounds it could be pretended that, either in point of new and heterodox opinions to be taught, or of irregularities to be committed, these apprehensions were supported. There was not, in the slightest degree, any greater probability of noxious novelties being introduced under the cover and protection of these halls than there was under the wing and shelter of the smaller colleges as they now existed. He contended that these halls were more carefully provided for by the Bill, both as to the maintenance of discipline, conduct, and learning, than the existing colleges. The clause had but to be looked at to support this view; but before adverting to it, he begged their Lordships to remember that the origin of the University of Oxford was intimately connected with the entire spontaneous creation of halls for the extension and benefit of learning, and that they were placed under the direction of such masters as the halls themselves elected. Then there was the Congregation. This received several organisations one after another, ending in that which took place under Archbishop Laud; but he believed that that constitution never would have existed had it not been preceded by those voluntary efforts—efforts which had done more for the cause of learning in England, and laid a deeper and a broader foundation for the future progress of science, and art, and religion, than any institution in any country. He was most ready to admit that the progress of learning, science, art, and religion was provided for in the University by a system of discipline which, historically and by its relations to the State and its affinity to the country, was entitled to the highest degree of reverence. But when it was admitted that this establishment, great, and venerable, and holy as it was, and much to be respected in the eyes of every man in the country, had partaken of the infirmities which attached to all institutions from the lapse of ages, that it had become subject to abuses which required correction, and that it had become contracted in its energies, and incapable of extending to all the benefits which ought unquestionably to be within the reach of all, what mode was there more natural, what system more safe, than to have recourse to that very practice in which the

University originated, and from which it derived its early vigour, for the purpose of renewing that vigour when it was found to be impaired? Could it be supposed, as he had heard it alleged, that by means of these halls all sorts of doctrine and every class of opinions were to be introduced into the University? Could it be supposed that they would become so many fire-ships sent abroad to demolish whatever they might come in contact with of the system now prevailing at Oxford? If their Lordships were under that impression, he only asked them to look carefully at the provisions of the Bill—provisions which, he contended, contained every safeguard that any public institution could possess, and safeguards particularly connected with the authority, power, privileges, and accretions possessed by the University itself. Before, however, alluding to these safeguards he would venture to ask their Lordships by whom could these attacks be made? Who were the conspirators whom the noble Earl apprehended would carry on their machinations for the purpose of undermining the older colleges, and destroying the authority and system of the whole University? Well, he turned to the clause which the Committee were now discussing, and who were the persons that stood at the very head of the mischievous and noxious party about whom so many apprehensions were felt? Why, they must be members of Convocation. That was to say, this system of concealed warfare against the discipline of the University and colleges, and the orthodoxy of the Church, was to be carried on by members of Convocation—by men who could only be such by virtue of subscription to the Thirty-nine Articles, and of the open profession of themselves as members of the Church of England. But, more than this, the head of one of these private halls must obtain, before he could open his establishment, a licence from the Vice Chancellor. Here was conspirator the second. The Vice Chancellor of Oxford was a party to the conspiracy apprehended by the noble Earl. The Vice Chancellor of Oxford was to concur in the establishment of these formidable institutions, which were to be so noxious and injurious to the State and the University. Nor was this all; for the clause said that no such licence shall be granted by the Vice Chancellor until such regulations as should hereafter be agreed upon by the University should have come into operation. The licence, then, could

neither be granted by the Vice Chancellor nor enjoyed by the party until certain regulations had been formally adopted by means of which these halls were to be governed. And who were to make these regulations? Why, the University itself. Their Lordships had, therefore, a very pretty picture of the conspirators; for first there were the heads of the hall conspiring against the institutions of the University; then there was the Vice Chancellor sanctioning their conspiracy and enabling it to be carried on; and, finally, there was the University itself devising such regulations, and preparing such devices, as would provide for the admission of the halls, but of course taking care to provide all proper security against their interference with the existence, the character, and the functions of the greater colleges. He told the House, again, that he saw not the least reason for apprehension; that these halls, which had been held up as a sort of spectre to frighten people, when they came to be carefully looked into, when they were made to take a local name and habitation, when they became sensible to the touch, resolved themselves into the most innocent bodies for the mischief they could do, but into the most powerful for the advantages they might accomplish. Then it was asked, who had required these halls? He contended that there was a necessity for them. The great colleges were full to overflowing, and numbers were obliged to have recourse to the smaller colleges. Now, he submitted that these halls would effect a very important object, even if they effected no other, by stimulating the smaller colleges to greater efforts and exertions. The noble Earl said they would neither be better than the colleges, nor so cheap. Then they would not exist. It was only by such means that competition could be stimulated; and the halls could be viewed in no other light than that of an useful and safe addition to the aggregate of the University. The University, by these means, would be enabled to accommodate itself to the wants of the times. As he had already observed, the noble Earl had attempted to persuade their Lordships that these halls would not be cheap, and that they would fail to attract. It was not correct, however, to assume that they would not be cheap. He had recently had an opportunity of making inquiries as to the expenses in the University of Durham and the halls there, and he found that the ex-

pense of education in Durham was lower than at Oxford, and that the halls of Durham were cheaper than the colleges in the University. Judging from this analogy, he conceived that the halls in Oxford would be cheaper than the colleges. Under these circumstances, he thought that this clause would lead to, and confer, many advantages upon the students, and he considered that to endeavour to give every extension in every possible way to the benefits to be conferred by the University was a duty which the Legislature owed, not only to the interests of the University, but also to the interests of learning and of the country at large. Therefore, he earnestly called upon their Lordships not to reject it.

THE EARL OF MALMESBURY thought that the noble Marquess was somewhat too sanguine as to the effect of the checks which would be imposed upon those who established private halls, for, if he (the Earl of Malmesbury) read the clause rightly, the Vice Chancellor would, under the regulations required, have no choice in giving a member of Convocation a licence. They had already seen the University convulsed by the disputes and conflicting opinions as to religious doctrines; but these had hitherto been materially neutralised by the constitution of the colleges as they now stand; but under the present clause persons would have it in their power to invite and tempt young men, perhaps too much disposed to agree with them, to join these private halls, and would there form nests of disputants and so encourage dissensions and divisions. Under this clause, applicants for halls were to be allowed to establish them within one mile and a half of Carfax, and this was open to grave objections. He saw a right rev. Prelate present who had ably and pleasantly fulfilled the functions of a proctor when he (the Earl of Malmesbury) had the honour of being an undergraduate, and he would ask that right rev. Prelate how he would like a nocturnal walk of the distance of a mile and a half for the purpose of looking after delinquents and of keeping order in the halls? There were, in his opinion, moral objections to this clause, and he should, therefore, give his vote against it.

THE EARL OF CARLISLE said, that, in giving his assent to this clause, he desired briefly to state his reasons for so doing. The noble Viscount who moved the second reading of the Bill in a full and able

speech had made it his business to show the essential connection between the present clause and one in a subsequent part of the Bill, the object and virtual effect of which was to provide for the admission of Dissenters to the University. He thought the noble Viscount had fully and logically established this connection, and it was the view so taken and the inferences drawn from it, that had induced him (the Earl of Carlisle) to think that it was a most incumbent duty that he should adhere to this clause as it now stood, however he otherwise might have been inclined to view it with indifference, or even doubt. Without going into discussion at present as to the admission of Dissenters, he must say that he did not look upon that admission as a question to be fenced with; for he thought such a measure was good in itself, good for the University, good for the Dissenters, and good for the Established Church, and he should be willing to maintain these converging views of the clause, should any serious opposition hereafter be shown to it. When he had said how heartily he assented to the propriety of admitting Dissenters to the University, he felt scarcely called upon to add that he did not think this admission should be a mere nominal and colourable one, or should be offered to them so as to be regarded by them as offensive, and he must own that he did think that it sounded ominous when the noble Earl the Chancellor of the University observed the other night that, if Dissenters were admitted to the University, they could not expect any exemption from attendance on the services of the respective colleges. As to attending on chapels, he concurred in the observations made by the noble Earl respecting the declaration on mysterious articles of faith required from youths, not to say boys, on their first admission to the University. He had often looked back with something of shame and compunction to the want of consideration shown when he himself at that age was called upon to adopt—if the term were not an irreverent one he would say to swallow down at one gulp—such a comprehensive system of doctrine. When he said that he fully concurred in dispensing with the necessity of this subscription at so tender an age, he must also add that he should be equally loth to impose the still greater mockery of compulsory worship. He greatly doubted whether in their great schools and colleges they had not now too much of compulsory worship, even as related exclusively to those of the same

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communion; but if they imposed it on those of another communion, not only would it be vexatious, annoying, and degrading, but most disparaging to the services themselves. If they were to collect their indications of the probable disposition of the authorities in the colleges and halls of Oxford from the lips of the Chancellor, not slighting the other arguments which had been so ably and forcibly advanced in favour of the establishment of these private halls by his noble Friend (the Marquess of Lansdowne), but from the view as to what they might apprehend from the disposition of existing authorities, as they had heard it interpreted by the noble Earl (the Earl of Derby), he felt bound on that account alone to retain these private halls as the last, and, possibly, the only retreats in which Dissenters, to whom they affected to give admission for the purpose of reaping the benefits of University education, would be able to enjoy that privilege with due regard to their own ease, comfort, and dignity, and in which that liberty of conscience to which they professed to do homage, would not be a mere pretence, but a reality, and to which he hoped they might look for precious and enduring fruits. It was on these grounds that he should give his hearty assent to the clause as it now stood.

THE EARL OF CARNARVON, with all due deference to the able speech of the noble Earl the Chancellor of the University, felt that the plan now under consideration combined many of the advantages, and was free from many of the objections, which attached themselves to similar plans which had been propounded with similar views. The colleges would remain precisely upon the same footing, with the same privileges, the same associations, the same sympathies, heightened and increased rather than diminished by rivalry. He had no doubt there would be found many residents in the private halls who would retain their connection with some of the colleges. It had been said that the system would lead to immorality and want of discipline; but if there should be any immorality or want of discipline, it must originate with the masters of the private halls. He believed that public opinion would counteract any danger in that respect, and, if that should not be thought sufficient, a provision might be inserted making the licences granted to the masters renewable every two, three, or four years, or under certain conditions. The plan was distinguished by

remarkable elasticity and comprehensiveness, and by adapting itself to the condition and varying circumstances of the rich and the poor. If it failed, its failure would attach to itself, but if it succeeded, its success could not fail to be very great.

LORD LYTTTELTON: My Lords, I do not consider that those who, like myself, belong to the University of Cambridge, are very good judges of most parts of this Bill; the two Universities are so different. There is only one part of the provision of the Bill on which I would presume to intrude on the House, and that is what relates to the admission of Dissenters. I am prepared to agree to those provisions, as far as they give admission to Dissenters to the Universities as distinct from the existing colleges of which they are composed. I agree to them because they seem to me to be a wise and expedient concession to the Dissenters on the part of the University. I do not agree to the absolute claim of right which is set up on their part to the advantages of the University. That claim seems founded on the statement that the Universities are national institutions, and that therefore the Dissenters, as an integral part of the nation, have a right to be admitted to them. Now, in what sense are they national institutions? In what sense are they so other than that in which the Established Church is so? It seems held that they are so, because their influence is so large and overreaching over the whole of the country. But so is that of the Established Church. And so it would follow from this argument that Dissenters should be admitted to the privileges of the Established Church. Nor is this such a mere contradiction in terms as it appears at first sight. Some persons do contend that such ought to be the position of the Church of this country—of the national Church of any country—that it should be so framed as to enlarge and relax itself from time to time, according to the public religious opinion of the country, whatever it may be. But this is not very generally held, nor is it needful to dwell upon it, as it does not seem to be the usual ground upon which the claim of the Dissenters is based. This seems to be the fact, that at the time when the Universities were founded, the Church was coextensive with the nation; and that, as it has long ceased to be so, the Universities should no longer be exclusively connected with the Church. But this view rests on a mere assumption. It is a claim

of strict right, as belonging to the essential constitution of the University, and, therefore, must depend on something either in the will of the founders of the University, or of the supreme authority of the nation, or of the nation itself. Now, it can never be proved that in any of these quarters the main intention was that the University should be coextensive with the nation, except as the nation held to a definite religious system. It is just as allowable, and I consider it more reasonable, to suppose that they held rather to the religious system, and that, if called on to elect, they would have restricted the University to it. But then it is said that this view can no longer be maintained, because that definite religious system no longer exists. This belongs to the old question of the identity of the Church of England before and after the Reformation. But the view that it is not the same Church, because so great a change was made at that time in its doctrines, is evidently a question of degree and of opinion, which can never be distinctly solved. For the Church of England is a corporate body with a definite power of regulation, and no one will deny that some alteration in its doctrines might be made or received, and yet the identity of the body preserved. And where the line should be drawn is clearly a matter of opinion. Surely the only satisfactory way is to look at what the Church is in the eye of the law, and on that there can be no doubt. Every Statute and every document of the times of the Reformation would show that the Church continued the same in the eye of the law, and this is the material point when the claim is one of strict legal right. So of the intentions of founders; it is a mere assumption that at the time of the Reformation they would have refused to accept on behalf of their endowments the altered doctrines, rather than have followed them with the majority of the nation. The Universities, therefore, followed the Church. Those who left the Church left the endowments connected with it, and they knew that they left them, for this claim as of right on the part of the Dissenters is of recent date. Nor can I admit that the exclusion of Dissenters is any great grievance to them. They have their own University; nothing hinders their having as many Universities and colleges as they please; we are constantly told that they are as good, as numerous, as wealthy, as powerful, as the Church, and

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there is a good deal of truth in this; but if so their exclusion is no great hardship. But still, no doubt it would be some advantage to the Dissenters that they should be admitted; and if it be the least advantage to them, I am willing to concede it, as I do not see that it would be at all injurious to the University. The University would confer the honour of a degree, indicating a specific amount of attainments. No doubt some of the present pre-requisites of a degree would be omitted; there could be no theological examination. But to that I see no serious objection. The University, as such, need not profess to require a complete education on the part of those on whom it confers a degree. No doubt it is an educating body, but it educates through its colleges. It is not proposed to divide education into religious and secular, to which I object; but instruction may, no doubt, be so divided. It is the colleges which educate, in the true sense that they give moral training and discipline. This refers to the well known question which belongs even to elementary schools, much more to colleges. Elementary schools give a moral training; and colleges are domestic institutions—homes for young men during part of the year at a critical time of their lives. Indeed, no one doubts that they profess to give moral training; and what I deny is, that moral training can be given without a definite creed. I am sure there is not one of the right rev. Prelates who will not confirm what I say—that moral training is based upon certain theological truths, and, moreover, controverted truths, but to which we, in the Church of England, attach great importance. I therefore take the exactly contrary view to that of the noble Earl opposite (Lord Derby), who seemed to have no objection to the admission of Dissenters, provided they were admitted into our colleges; certainly on the rather singular view that they should be thus subjected to influences antagonistic to those they receive at home. The noble Earl seemed to expect that such Dissenters would be a few very moderate ones, who would learn at college how slight their differences with the Church were. That might sometimes be; but I have no doubt the Dissenting body which would the most avail themselves of such admission would be just the most unlike these. They would be the Unitarians; because that is the body which the least cares for definite systems of belief. I therefore hold that those who enter

the colleges should be such as can be submitted, not in a loose way, but really, to moral training under a system of Church discipline and Church ordinances. And if so submitted, then such young men are, in fact, whatever their parents be, not Dissenters at all. Now, a leading point in such a system is united worship—not necessarily daily worship, though I think it should be so, nor necessarily compulsorily so; but united worship should be an essential part of a collegiate system. I quite admit that what I have said is inconsistent with the Cambridge system. I have myself seen there, not only Roman Catholics, but Jews, apparently joining in the chapel service. I say that is a mockery both of our religion and of theirs. It is easy to say, "Then give up the service:" but that I have urged to be fundamentally inconsistent with the idea of collegiate life. This certainly involves some test on admission, for without any test at all it is the Cambridge system. I do not go into that question, as I wish to deal only with principles: but I can have no doubt that some test could be devised in accordance with the views I have stated. One thing I will say, that whatever test is right, that of subscription to the Thirty-nine Articles is certainly wrong. The test ought surely to coincide simply with whatever are the proper terms of communion for the English laity, and that the laity of the age of those who are admitted to the University. I again appeal to the right rev. Prelates, who, I am sure, will none of them say that adhesion to the Articles would be such terms of communion. No doubt it would be so, if the Articles were, as I have lately seen them described, the "rudiments of the Christian faith:" which I apprehend to be a singular misdescription. So far from that, they are very advanced and mysterious doctrines, often expressed in very scholastic and difficult language. But that in some way the colleges might attain the object I cannot doubt. So of the University admitting Dissenters while the present colleges remain as they are, that in some safe way it may be done, whether through these private halls or in some other way, I have no doubt. We must remember what seems generally admitted, that the University, if she is determined to baffle and evade these provisions, can undoubtedly do so; but if she cheerfully applies herself to obey the intentions of Parliament, I can have no doubt it may be

done. But of our existing Church colleges, I say that I trust they will resist, even unto annihilation, any attempt to deprive them of their distinctive religious character.

THE EARL OF DERBY said, that the observation of the two noble Earls who had taken part in the discussion imparted a new character to the clause under discussion. He was prepared to rest his opposition to the establishment of private halls on the grounds which he had stated on a former occasion—namely, that they would not effect the object in view, and that they would be inconsistent with the maintenance of discipline. Some of the noble Lords who supported the Bill put their opinion on precisely opposite grounds to that taken by the noble Marquess (the Marquess of Lansdowne). The noble Marquess supported the clause on the ground that nothing was to be apprehended from the establishment of these halls, and condemned the idea that there would be any danger to the doctrines of religion prevailing at the University. Now he (the Earl of Derby) was very far from thinking that all members of Convocation were the persons best qualified to have the control of these halls. It had been asserted that they would be under the control of the Vice Chancellor, because his licence was required for their establishment. Now the functions of the Vice Chancellor were purely ministerial, for it was provided—not that it should be lawful for the Vice Chancellor, if he thought fit—but that any master of arts should obtain from the Vice Chancellor a licence for that purpose. It was true that the licence was not to be valid until the University should have made certain regulations, or, failing the University, the Commissioners. He did not envy the Commissioners the duty of framing such regulations. He was quite certain there would be the greatest difficulty in carrying out regulations, more especially for private halls, "the instruction and discipline of the students therein, and their attendance on divine worship." But the noble Lords who followed the noble Marquess in support of the Bill were of opinion that the Dissenters had a fair claim, as a part of the nation, to admission to the University.

LORD LYTTTELTON stated that he had said quite the reverse.

THE EARL OF DERBY believed that the noble Earl opposite had argued the question on that ground.

THE EARL OF CARLISLE said, he did not argue it, but he was prepared to argue it.

THE EARL OF DERBY: His noble Friend did not argue, but he was prepared to argue. His noble Friend argued in favour of expediency and necessity, but he (the Earl of Derby) was not going to argue in favour of either; but he was going to call the attention of their Lordships, and of the right rev. Bench especially, that they now had it avowed, and distinctly declared, that the object of those private halls was to provide places where Dissenters might congregate. Now, that declaration was made by two noble Lords who took a prominent part in the debate. By the admissions made in the other House, and now more fully in this House, they now saw what was the necessary and natural consequence of the establishment of those halls—they were about to force upon the University that which upon other grounds they objected to, and to introduce into the heart of the University those Dissenting bodies, free from all University control as regarded the doctrines and religious principles of the Church of England. That being the object of the Bill, he should not waste another word, but ask the right rev. Bench if they were going to support a clause which should have such effects?

THE EARL OF CARLISLE explained. What he said was, that he thought it would be equally advantageous to the Dissenters themselves, to the University and the Church of England, if the Dissenters were freely admitted; and he only argued that he hoped anybody frequenting those halls should be free from compulsory attendance upon the services of the colleges and halls.

LORD LYTTTELTON also explained. What he had said was, that he had no doubt if the University thought fit to give admission to Dissenters it would do so, either by private halls or in some other way, and he was therefore prepared to vote for the Bill on those general grounds.

THE EARL OF DERBY was sorry if he had misrepresented his noble Friend (the Earl of Carlisle), but he understood him to say that the inmates of those halls should not be subject to the discipline of the Church of England, and his noble Friend (Lord Lyttelton) said Dissenters had a right to a full participation of the University honours and privileges, to which they were now unable to obtain admission.

THE DUKE OF NEWCASTLE said, the noble Earl opposite had misrepresented both his noble Friends. He was perfectly content to leave the explanations of his noble Friends in their own hands; but the noble Earl, after misrepresenting them, had misrepresented the Bill and the authors of the Bill, and those who were responsible for it. [The Earl of DERBY: Who are they?] Why, the Government. The noble Earl might laugh, but the Bill was introduced by the Government, and they were responsible for it. When introduced into the House of Commons, it had on its back the names of three of the Ministers of the Cabinet. The noble Earl said it had been distinctly avowed that the object and intention of this provision was the introduction into the heart of the University of a nest of Dissenters who would be at variance with the colleges around them. Now, he entirely denied that such was the object or intention of the framers of the Bill. But he did not deny that this clause might give some validity to two clauses at the end of the Bill which had been introduced in the other House by an independent Member, and which the noble Earl not only did not resist, but of which to a great extent he had expressed his approval. The noble Earl said he should have objected to them if there had been any provision attached to them by which any compulsory action might be given to compel the colleges to waive any portion of their regulations or Statutes with a view to the admission of Dissenters without a violation of their consciences. He (the Duke of Newcastle) did not deny that these halls might give facilities for the introduction of Dissenters without a violation of their consciences. The licence, however, was only to be obtained by a member of Convocation, and a member of Convocation must be originally a member of the Established Church. It was true he might depart from the Church of England after he had obtained a licence, but the University would have the power of framing regulations by which these private halls would be governed; and in case the master ceased to be a member of the Church of England, his licence might be withdrawn, provided he exercised his powers in a manner injurious or dangerous to the interests of the University. But the intention with which these clauses had been framed was not that which had been suggested by noble Lords upon the other side. The intention

was that which had been avowed to facilitate and extend education; and to destroy any monopoly now existing on the part of the colleges, which might be considered injurious to the progress of education. The noble Earl had stated to-night, as he had stated last night, that he thought he should be able to show that so far from introducing a poorer class of students into the University, the establishment of private halls would have a directly contrary effect. He had instanced, last evening, and he had repeated this evening, that the servitors at Christ Church were supported at a cost of no more than a guinea a week. That was no argument at all. The servitors at Christ Church were supported by eleemosynary assistance, and to quote them as an illustration of the cost of education at the University, was to estimate the expenses of a labouring man by the fact that in the case of a charity school he paid nothing at all. But, then, it was said that the endowments which the colleges possessed enabled them to educate young men within their halls at a cheaper rate than private halls could do. Now, first of all, he denied the fact; and secondly, he said that if it were the fact the result would be that the halls would not be established. It might be perfectly true that a large number of persons might be provided for at a less cost to the individual than could be done where the number was small; but it must not be forgotten that it was the social habits of the young men that created the expense. It was not the mere cost of living so much as the fact that young men living together in society were obliged in a manner to live up to the standard of those about them; and if they wished to redress the evil, without having recourse to sumptuary laws, they must provide some institution in which these incentives to expense would not exist. But it was said that the discipline of these halls would be so lax as to render them unfit places for the reception and education of youth. But, as compared with the existing colleges, he anticipated that the discipline of these halls would be very superior. At all events it ought to be; for what was the discipline of the colleges? The young men were obliged to attend certain lectures, and to be within the walls at twelve o'clock at night; but as to discipline of a domestic character, as to any inspection, or what went on within their rooms, the authorities of the colleges would no more think of going into the rooms of

their young men than they would of entering the rooms of any of their Lordships. In point of fact, nothing like domestic discipline existed. But the discipline in these halls would be of a different character. The masters would have an opportunity of placing themselves in the position of parents to the young men, and of exercising a control and influence over them in that way. It was said that the proctors would exercise no jurisdiction over the halls; but the proctors were University officers, they had no authority in the colleges, they exercised no inspection with respect to the colleges at present; but they might, with respect to the halls, if the University should make rules to that effect. He could not understand how those who advocated, as some did, the system of private lodgings which existed at Cambridge, could possibly object on the ground of discipline to the introduction of private halls at Oxford. The discipline and superintendence exercised in the one case might be made of a most domestic and complete character; in the other case it amounted to nothing at all. In the University of Oxford, at this very moment, the student who had completed his twelfth term was compelled to leave his college and to go into private lodgings, where he had to complete the remainder of his term of education without being subject to any superintendence or any system of discipline at all. The noble Earl had stated last night that he should be perfectly content to allow the University to enact that the fathers of families might reside in the University, and their sons reside with them attached to the different colleges. He confessed he was unable to see how, if that system was admissible, the other could be objectionable. If the objections put forward to these clauses, the expense of education and the want of discipline and parental control—were the real reasons why they were opposed—it appeared to him that the house of a parent presented no advantage over the house of a tutor, resident and established at Oxford, to whose care a parent could with confidence intrust his son. On the contrary, the house of the tutor, who would be placed in the position of the parent with respect to moral control, and who would combine with that control the capacity to teach, would present, in his opinion, very superior advantages to the other. He would not detain their Lordships further; for he had only risen to reply to the observation made

by the noble Earl in the course of his last speech, that the avowed object of these clauses was to place in the bosom of the University nests of Dissenters, who would act antagonistically to her interests, and to introduce within the precincts of that noble institution those whose sole object would be her eventual destruction.

LORD CAMPBELL expressed his dissent from the construction which had been put upon the 27th clause, and stated that that clause imposed no legal obligations on the Vice Chancellor to grant the licence when applied for; and that if an application were made to him (Lord Campbell) for a *mandamus* to compel him to grant it, he should refuse it.

On Question, their Lordships *divided*:—  
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*The Duke of Newcastle*

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Clause *agreed to*.

Clauses 28, 29, and 30 *agreed to*, with verbal amendments.

Clause 31 provides that colleges may amend Statutes with respect to eligibility to headships, &c.

LORD WYNFORD moved the omission of the words, "and in the case of some of the colleges for rendering portions of their property or income available to purposes for the benefit of the University at large." The preamble of the clause declared it was expedient to enable colleges to make ordinances for promoting the main designs of the founders. It could never be the

design of the founders that the emoluments should be estranged from the colleges and given to professors whose existence they never contemplated. He, therefore, moved the Amendment to make the enacting consistent with the declaratory part of the clause.

THE EARL OF DERBY said, that he certainly had no great encouragement to propose any Amendment on the Bill, because it appeared very clear, whatever was the case elsewhere, here, at all events, the Government could do with the Bill whatever they thought fit. Instead of proposing, as the noble Lord had done, to make the preamble suit the enacting part of the clause, he proposed to make the enacting part suit the preamble. He begged to remind the noble Viscount who had charge of the Bill, that last night he referred to this clause as one which would enable colleges to make new regulations, "of course with the consent of the visitors." In order to carry out the noble Viscount's views, he proposed, at the 28th line, to insert, after the word "colleges," "with the consent of the visitors." In the 31st line he proposed a verbal amendment, to which, perhaps, the noble Viscount would have no objection—to substitute, "with due regard to," for "according to" personal merits and fitness. As it now stood, personal merits appeared to be the sole qualification. He proposed also, in order to make the clause accord with the preamble, to add, after the word "College," in the 44th line, "but with the consent of the visitors aforesaid," and in the next line but one, after the word "purposes," "so that the same be not inconsistent with the main designs of the founders or donors." At the close of the clause he would submit to their Lordships a proviso, the object of which was this:—the jurisdiction of the Commissioners was exceptional, and it must be the desire of every one to terminate it at the earliest possible moment consistent with carrying this Bill into effect. It could not be the wish of the Government that the Commissioners should be perpetually altering the various regulations of the colleges. The object was to induce the colleges, under the authority of the Commissioners, to introduce a good scheme of government and a good system; and having done so, it was extremely desirable, when the scheme had been approved by the Commissioners, that their power of interference should cease and determine. The proviso he proposed to add was in these words—

"Provided also, that when any such regulations and ordinances shall have been so approved of by the Commissioners in regard to any college, and shall have been further approved of by Her Majesty's Council, and allowed by Parliament, as hereinafter provided, all the powers given by this Act to the Commissioners, to remit the same for further consideration or revision by such college, or to frame regulations and ordinances for such college, shall cease and determine."

VISCOUNT CANNING said, with regard to the consent of the visitors being made necessary, the functions of the visitors were to superintend the observance of the college Statutes, and in three at least of the colleges at Oxford the visitors were positively prohibited from consenting to any alteration whatever. The adoption, therefore, of the Amendment of the noble Earl would be productive of mischief. In the case of Exeter College the right rev. Prelate who presided over that diocese was the visitor, and he had altogether refused to countenance or sanction any change in the Statutes. He believed, too, the noble Earl himself, who, in his capacity of Chancellor of the University, was visitor of Pembroke College, had taken a somewhat similar resolution. If the clause were amended, as proposed, these colleges would be compelled to place themselves under the jurisdiction of the Commissioners; and for these reasons he did not think the alteration desirable. With regard to the proposal to change the words, "with due regard to," for "according to," he preferred the latter, as much more distinct, and could not acquiesce in the suggestion of the noble Earl. As to the insertion of the words, "so that the same be not inconsistent with the main designs of the founders," in many cases the designs of the founders were inexpedient to be carried out, and the limitation would operate as a check upon the praiseworthy desire of some of the colleges to reform themselves. He had an Amendment of his own to propose on this clause, but it was necessary that he should first refer to the 34th clause regarding schools. It was originally intended to deal with the emoluments attached to colleges—not to overlook or override the interests of the schools—but to provide more effectually for the promotion of education. There were many schools to which fellowships and exhibitions or scholarships were attached, which not only carried with them the advantages of the scholarships, but, by course of time, led to fellowships. The effect of that had been to operate as

a positive discouragement to learning, because a boy who had been industrious enough to obtain a scholarship was not likely to follow up his studies when he knew a fellowship would follow independent of any merits of his own. It was originally proposed that whenever a fellowship of this kind was made open, a close exhibition should be given to the school in exchange. That intention did not meet the approval of the House of Commons, and the result was that Clause 34 was introduced, guarding schools, and the emoluments attached to them, by requiring the assent of the governing body of the schools. The Government felt this would be inflicting on the school great disadvantages, as it would be practically placing in the hands of the governing body the right of naming the boys in the school who would become masters and fellows of the college, and thereby the governors of Oxford. The Government, therefore, intended in the 4th line of the 34th clause, after the words "any emolument," to insert the words "other than a fellowship or studentship;" and at the end of the clause to add—

"And if in any college where fellowships or studentships are tenable by undergraduates, either the college, or the Commissioners acting in respect thereof, shall divide its fellowships or studentships into elder and younger, the elder only shall be taken to be fellowships or studentships within the meaning of the section."

He also proposed, in the 36th line of the 31st clause, to insert after the words "University at large," the words "for the consolidation of fellowships, and for the conversion of fellowships attached to schools into scholarships."

THE EARL OF DERBY said, whatever the Government proposed they were able to carry, and he had no wish to waste their Lordships' time in useless discussions; but as his noble Friend, in his speech the other night, appeared to consider that the principal design of the founders was to benefit the colleges, and not the schools, he could not refrain from expressing his belief that that was a total perversion of the real state of the case. He believed that in respect to almost every endowment, the main design of the founder was not to benefit the University or college at all, but the school and the locality. There were many cases to prove this, and among others might be mentioned that of Abingdon School, and the scholarships connected with it and attach-

*Viscount Canning*

ed to Pembroke College. No one could deny that in this instance the object of the founder was to benefit the school, and not any particular college, the naming of which, in many cases, was purely a collateral, and oftentimes an accidental occurrence. There were, doubtless, cases where the founder might have wished to benefit both a particular school and a particular college at one and the same time; but he put it to any one who understood the question, whether such cases were not exceptions, which, probably, would prove the rule. He was perfectly convinced that the Amendment proposed to be introduced by the Government in this clause would operate most unjustly, and tell most injuriously upon many of our great schools, inasmuch as he believed that many of these schools were selected solely for the sake of the afterwards-to-be-acquired fellowships that were attached to them, rather than out of any inducement which their particular exhibitions and scholarships held out. It was also to be remembered that the Amendment was in direct opposition to the twice-expressed opinion of the House of Commons, and he could not help thinking that Government made use of very little discretion in pressing it at the present time on the attention of their Lordships.

THE EARL OF WINCHELSEA said, that the present Bill proposed to effect the most dreadful confiscation of property that ever took place in an enlightened country, and was the grossest violation of justice that ever characterised the Legislature of England. It diverted the property of private individuals into channels quite different from the original intentions of the testators, and from that moment never would there be one farthing left by private benevolence to endow any object of public charity in this country. After the passing of this Bill, what security would any man have that, before he was cold in his grave, his property would not be used differently from what he intended? There never was a measure so fraught with evil, so unjust in principle, so iniquitous in its details, as this accursed Bill. He deeply regretted the course which the right rev. Prelate opposite (the Bishop of Oxford), had thought proper to adopt with respect to this measure. Just twenty-six years ago, when he first came into their Lordships' House, he declared that whenever that bench of right rev. Prelates opposite was characterised by party or political motives the day would

not be far off when a separation would take place of that right rev. Bench from their Lordships' House, and that the right rev. Prelates who sat upon that bench would be constrained to retire to their separate and respective dioceses. The day was not far distant for them to do so, and he believed a very strong feeling existed out of doors as to the propriety of their making as much haste about it as possible; and as to its being more to the interest of the Church if these right rev. Prelates would bestow somewhat more of their time upon their religious and spiritual duties, and not mix themselves up so much in political questions as they did. He firmly believed that this Bill was the first step to separate the Church from the State, and he must confess that he thought on such a question that those whose duty it was to protect the Church ought not to be the men to press forward into the foremost rank, to desert the standard under which it ought to be their pride, as it was their duty, to serve. Such a course of policy would do them no good when the time came for the measure to be proposed for their exclusion from that House; and he could tell the right rev. Prelates that when such a measure was proposed the table before them would groan under and not be sufficient to support the weight of the petitions that would be presented in favour of such relief.

THE BISHOP OF OXFORD said, he did not intend to trouble their Lordships with any remarks in reply to those in which the noble Earl who had last spoken had thought proper to indulge, for he had too great an appreciation of the piety and sincerity of the noble Earl to be inclined to treat the remarks which he had just now made in the spirit which they might, under other circumstances, seem to justify, and certainly tended to excite. His right rev. Brethren, and he himself, were, however, by this time somewhat inured to the reproofs of the noble Earl, who kept these kind of remarks always ready to be discharged whenever the bench, whose conduct he seemed to consider so much under his special charge, took the liberty of not agreeing with him upon any subject. The noble Earl had characterised the present Bill as the first step towards separating the Church from the State; but he could not hear those words from the noble Earl without remembering on how many previous occasions this same ever-recurring first step had, in the judgment of the noble Earl, been already taken. He could only

say that on that evening the Members of the bench on which he sat had given no vote to countenance in any way the separation of either the University of Oxford or the State from the Church of England; and he felt assured that every one who sat with him there would sooner incur such penalties and privations as the noble Earl had threatened would be imposed upon them, than lend themselves, by word or implication, to foster or encourage any attempts to bring on so great a national calamity. For he believed that, if the Church of England were to lose all its present social position and worldly wealth, it would be little in comparison with the loss it would suffer if ever it were deprived of the power which, under God, it possessed of influencing this mighty people for good, through the way which it exercised over the University of Oxford, and, through that University, over the whole mind of the country. The purport of his rising to speak to the question now before the House was to say a few words as to the powers contained in those clauses of this Act which enabled the University to deal with the close fellowships; and, in speaking upon this subject, he must certainly say that he could not in any way bring himself to agree with the noble Earl (the Earl of Derby) in supposing that the proposed Amendment would cause any damage to our great endowed schools. He could not agree, either that the main object of the founders of these fellowships was to benefit solely the schools, or the towns in which such schools were situated; and, as a proof that such was not the case, he could cite many instances, but would content himself by referring to the school of Winchester, about which there had been so much discussion, and from the language of the founder of which it appeared that it was established merely as a nursery for youth, to be therein educated until such time as they could be transplanted to the University. He did not deny that there were many cases in which the object of the founder was solely the benefit of the particular school he was founding; but that this was not generally the case he thought might be shown in the great majority of instances. The noble Earl had referred to Pembroke College and its connection with Abingdon School; but, although there was no doubt that the object of the connection with the college which its founder had provided was the strengthening of the school, yet he considered that the condition of the school

for many years with these advantages, proved the necessity for the present or a similar amendment, inasmuch as it was necessary, without doubt or dispute, for some power to step in and carry out the intention of the founder, namely, the good of the school and of the town in connection with such school. The intention of the founder, under the existing restrictions, had for many years undoubtedly failed. In such cases, he held it was their duty to interfere, and in a spirit of fair legislation, suggested by the advanced intelligence of the age, to see whether the charitable intentions of the founders of some of our noblest scholastic institutions could not by new regulations be more fully and efficiently carried out. He considered that it would be much better to found scholarships in colleges than to adhere to this system of occasional fellowships, which was, at best, but a costly and cumbersome way of doing a little good to the schools at a great sacrifice in every other respect. In his opinion, the argument that it was our duty to regard the founders' wishes was the very one which justified the adoption of the Amendment proposed; because, if the founders really looked to the good of the town they wished to benefit, and to the service of God, whom they wished to honour by their charity and the after-blessings which it would bestow on posterity, it was clearly their duty, as legislators, to see that such wise and beneficent intentions were not frustrated by circumstances, or abused by neglect. It was their duty, first of all, to ascertain clearly what was the intention of the founder, and, having discovered what it really was, to adopt, at all hazards, every means fully to carry out such intention according to the intelligence and in the spirit of improvement which so happily characterised the present day. If we did this, we need entertain no fear that we were doing anything wrong by taking upon ourselves the responsibility of interpreting, and the duty of enforcing, the wish and intention of the founders of these schools.

Amendment *agreed to*; Clause, as amended, *agreed to*.

Clause 32, empowering the Commissioners to frame ordinances.

THE EARL OF DERBY said, the clause certainly did impose a certain amount of restriction upon the powers of the Commissioners, inasmuch as any ordinances or regulations which they might prepare could not be enforced, provided that, within a

specified time, two-thirds of the governing body of the college should declare, under their hand and seal, that in their opinion such ordinances or regulation would be prejudicial to the college as a place of learning and education. But it was possible that there might be regulations framed by the Commissioners which might be prejudicial to the college and open to grave objections, and yet the college would not have the slightest voice in the rejection of them, unless two-thirds of the governing body could declare that they would be prejudicial to the college as a place of learning and education. He suggested the insertion of some words which would have the effect of giving to the Commissioners power to act upon the report of the visitor, in all cases where it might be reported that the effect of the proposed alteration would be injurious to the interests of the colleges and the intention of the founder.

THE DUKE OF NEWCASTLE felt bound to object to such an alteration in the clause. The duty of the visitor was to interpret the Statutes of the college, and not to exercise legislative functions. It would be as anomalous to give the proposed power to the visitors of colleges as it would be to give the Court of Queen's Bench a veto upon an Act of Parliament.

Clause *agreed to*. Clauses 33 to 39 *agreed to*.

Clause 40.

THE EARL OF POWIS moved the addition of a proviso, that no professorships established or aided under the Act should be tenable with the headship of any college or hall.

VISCOUNT CANNING opposed the Amendment, on the ground that the duties connected with the headship of some of the halls were very light, and would not interfere with their duties as professors. He believed there was no fear that any undue attempt would be made to accumulate incompatible duties on one person.

Clause *agreed to*. Clause 41 *agreed to*.

Clause 42.

THE EARL OF DERBY moved an Amendment, to the effect that the private halls should be subject to the regulations and Statutes of the Hebdomadal Council.

VISCOUNT CANNING assented.

Clause, as amended, *agreed to*. Clauses 43 and 44 *agreed to*.

Clause 45 (Subscription to the Thirty-nine Articles).

THE EARL OF DERBY said, that last night he had expressed his opinions at

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some length in favour of admitting the Dissenters to the University, and he had come down to-night prepared to give that measure his support; but the language that had been held to-night with respect to private halls, the intentions that had been avowed, and the comments that had been made with respect to that clause, had since caused him to view the question in a very different light. Though, as a matter of grace and favour, he was willing to sanction the admission of Dissenters to the Universities, in conformity with the teaching and authority of the colleges, yet he was not prepared to say, especially after what had passed, that he was now willing to take any steps which might have the effect of establishing bodies of Dissenters not amenable to the discipline of the colleges within the University. He should, therefore, oppose the removal of the existing restrictions.

THE BISHOP OF OXFORD said, if he could bring himself to view this matter in the same light with the noble Earl, he also would oppose the clause. But he could not see that anything had passed in the House to-night—to all of which he had attended most carefully—that altered his opinions. The noble Earl said that statements had been made which implied that Dissenters were to be admitted to the University of Oxford without being subject to the discipline, rules, or laws of the University. He would only say, that if such statements had been made—it was not said by whom—they had altogether escaped his notice. He would not affect to say that he did not regret the insertion of those clauses. He regretted to find them in the Bill, not because he differed from the object which they were intended to answer, for he entirely agreed with the noble Earl in thinking that it was, on the whole, better, as a matter of grace and favour, to facilitate the admission of Dissenters to partake in the advantages and benefits of a University education than to exclude them altogether. But then he desired that this step should have been taken by the authorities of the University themselves, as Her Majesty's Government had intended; and he regretted that this clause had been put into the Bill, not because he objected to the admission of Dissenters, under such regulations as the University might have adopted for preserving the Church of England character of its religious teaching unaltered, but because he thought a different impression was given to the question from

what it would have worn if they had been admitted, as he firmly believed they would have been admitted, by the spontaneous act of the University itself. If, indeed, he thought that this clause bound the University, either directly or indirectly, to swerve one inch from her affiance to the Church of England, from teaching the truth as the Church of Christ reformed in this land held and taught it, then there was no penalty which he would not suffer rather than give his assent to it. But admitting with the noble Earl that it would now be impossible to prevent the adoption of these provisions, he was entirely unable to enter into his objection that the proposed private halls would be unfavourable to the Church of England. He thought that the foundation of private halls might, if properly conducted, have precisely the opposite effect. He would be much obliged to the noble Earl if he would state explicitly what he meant, or how much he was prepared to concede, when he talked of admitting Dissenters. Did he mean that he would grant them admission to the ear, but would deny it in fact; or did he mean that he would admit Dissenters to existing colleges, as if their admission to the colleges would be safer to the Church than their admission to private halls? The noble Earl stated that, though the principal of these halls might be a member of Convocation, it did not follow that he would be a member of the Church of England—that he might have been at some former time—but that even if he had quitted it, he would still have the power to open a hall. He (the Bishop of Oxford) would remind the House that that was not the case, for before a single member of the University could undertake the office of teaching, he was liable to be called upon by the Vice Chancellor to repeat his signature to the Thirty-nine Articles, and therefore perverts from the Church of England could not assume the office of teachers. And it did seem to him that the argument used at a former period of the evening with respect to these halls was unanswerable. Did the noble Earl really think that the religion of young men at Oxford—their real belief in what they were taught—would be strengthened by seeing seated by their side in the same chapel a Jew, who they knew denied altogether that Christianity whose highest rites they might be engaged in celebrating? Yet this was the alternative which the noble Earl must have in view, if he

admitted Dissenters *in statu pupillari* to the colleges, where they must attend the prayers and services of the Church of England, while he would bar them from the halls. He did not see how it was possible to escape from this conclusion. The noble Earl said he was in favour of admitting Dissenters; but then it was to be under such restrictions that their entrance would be either an act of hypocrisy or altogether impracticable. For his part, he was prepared to give, not a glad assent—for, as he had said, he wished this matter had been left to the University—but he must confess it a grudging and unworthy assent to the clause, feeling that of two evils this was the least, and feeling that the strict alliance of the colleges of Oxford to the truth which they were bound to maintain, as it was held and taught in this Reformed Church, was not affected thereby, and that it was far better and safer for the Church that they should agree to this than, by seeking at this moment fruitlessly to occupy an exterior position which they could not defend, and invite an aggression which at last might reach the citadel.

THE EARL OF DERBY said, as the right rev. Prelate had asked him to explain how far he would go, which he thought he had already made sufficiently clear, he would trouble their Lordships with one or two words. He had always held the opinion that Dissenters might, in accordance with the discipline and rules of the University, be admitted to the advantages of her teaching, and therefore he desired there should not be interposed by the authority of the University, or still more by the authority of Parliament, anything in the way of subscription which could by possibility prevent their obtaining admission. But he had also held, and till that evening he thought it was also the principle of Her Majesty's Government and of the majority of the right rev. Bench, that the admission of Dissenters to partake of the benefits of the University did not entitle them to call upon the University or the colleges to change their system, or to give up their connection with the Church of England. If the Dissenters claimed to be admitted to the benefits of the University without being subjected to the discipline of the University, then he could not consent to their admission, because he was satisfied that this change of system with regard to Dissenters would lead to a fatal breach in the discipline of the University, and to a severe

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rance of her connection with the Church. He would place the University of Oxford on the same footing with the University of Cambridge, and he was not aware that the University of Cambridge had ever been charged with opening her doors in profession while in reality they were closed to Dissenters. The very different principles which had been avowed that night convinced him that this would prove a heavy blow to the religious and to the Church of England character of the University; and with that view, much as he desired to see Dissenters admitted, he could not vote for this clause.

THE BISHOP OF ST. ASAPH said, he had no sympathy with those who wanted to give the Dissenters a governing power in the University; but he was, and for the last thirty years he had been, in favour of admitting them to matriculate. At the same time, he wished that this concession had emanated from the University itself. He should like very much that subscription to the Thirty-nine Articles were omitted at the entrance of students; and this not so much from regard to Dissenters, but because, when he had occasion to matriculate young men at Oxford, he explained to them before he took them to the Vice Chancellor—"You are now going to declare yourself a member of the Church of England. You are not going to declare that you understand or assent to the Thirty-nine Articles, but simply that you do not object to them." [Laughter.] Noble Lords might laugh; but if they had the same thing to do, they would give the same explanation.

THE DUKE OF ARGYLL expressed his strong conviction of the immense advantage derived by every religious body from the adoption of a liberal rule with regard to the admission of Dissenters from their own creed, so long as the government of the particular school or college remained in its own hands. In the schools connected with the Established Church in Scotland, the rule had long been in practice that Dissenters' children should be admitted and exempted from catechetical teaching; and the Established Church had not been weakened, but rather strengthened by it. A similar rule prevailed in the other Churches of that country. All held the rule that the children of those who dissented from their doctrines might be admitted to the secular teaching of the school. It appeared to him that in this clause the entire governing and teaching powers of

the University of Oxford were carefully preserved; and, so long as that was the case he had the most thorough and sincere conviction that these extensions would tend to strengthen the bonds of the Church of England. If the University did propose to admit Dissenters, it ought to be allowed to make the necessary regulations.

THE EARL OF HARROWBY observed that the clause did no more than place the University of Oxford in the present position of the University of Cambridge with regard to the admission of Dissenters. Any step taken in Oxford beyond that would be the work of the University itself; and, under these circumstances, he could see no reason why the clause should not be adopted.

THE BISHOP OF RIPON confessed that it was with sorrow and regret he saw the introduction of these clauses, not because he had the slightest objection to the admission of Dissenters, or that he imagined no advantage would result from it, but because he foresaw that it would materially discourage the supporters of the Bill in its future stages. He wished that more time had been given for the consideration of a measure so wholly affecting the interests of the University.

THE DUKE OF BUCCLEUCH had no objection to Dissenters entering the University; but the University itself could by Statute make the alterations necessary to effect that purpose, and no doubt it would after the expression of the opinion of both Houses of Parliament. Under these circumstances he wished the clause to be omitted.

Clause *agreed to.*

On Clause 46, which enacts that it shall not be necessary to take any oath on taking a degree, save the oath of allegiance,

Their Lordships *divided*:—Content 73; Not Content 47: Majority 26.

Clause *agreed to.*

The remaining Clauses and Schedules *agreed to.*

Report of Amendments to be received on *Tuesday* next.

House adjourned to *Monday* next.

## HOUSE OF COMMONS,

*Friday, July 7, 1854.*

MINUTES.] PUBLIC BILLS.—1° Highways (Public Health Act); Poor Law Commission Continuance (Ireland); Militia (Scotland); Highway Rates; Heritable Securities (Scotland); Metropolitan Sewers; Turnpike Trusts Arrange-

ments; Turnpike Acts Continuance, &c.; Public Health Act Amendment.

2° Commons Inclosure (No. 2); Prisoners Removal.

3° Sheriff and Sheriff Clerk of Chancery (Scotland); Married Women; Valuation of Lands (Scotland).

## MIDDLESEX INDUSTRIAL SCHOOLS BILL —ADJOURNED DEBATE (SECOND NIGHT.)

Order read, for resuming adjourned Debate on Question [4th July], "That the Amendments made by the Lords to the Middlesex Industrial Schools Bill be now taken into Consideration."

Question again proposed.

Debate *resumed.*

LORD DUDLEY STUART said, he rose to move that the Lords' Amendments to this Bill be taken into consideration on that day, three months. When this Bill came before the House for a second reading, he moved that it be read a second time that day six months, inasmuch as he had serious objections to the measure. He, however, consented to withdraw his Amendment, inasmuch as it was generally agreed that they should go into Committee upon the Bill with a view of remedying the many defects he observed in the measure. This House having agreed to certain amendments in the Bill, it was passed in an improved state. The Lords, however, had struck out all those amendments. He, therefore, thought that he was only acting consistently in moving his present Amendment. He thought that this was a species of special and exceptional legislation, whereas it was his opinion that those matters should be regulated by a general Bill; and a general Bill had been introduced on the subject by the Government, which had been passed last night through Committee. If, therefore, they passed the present Bill, together with the Government Bill, they would have two principles recognised in regard to the same criminal offenders. In one case the criminal offenders would be subject to punishment first, and would be then placed in reformatory schools. That was the Government scheme. In the present measure the punishment would be dispensed with in respect to the same offenders, who would be placed in reformatory institutions. The principal objection which he had to the Lords' Amendments was that in relation to Clause 29, page 13, which would completely neutralise the intentions of that House. The Amendment of that House was to give power to the ministers of other religions, beside that of the State,

to visit juvenile offenders of their own religious persuasion, to afford them every consolation in their power, and to celebrate divine worship in those schools. Those visits were, however, to be made under certain regulations. By the Lords' Amendment no minister could visit those places unless at the special request of the juvenile offenders or of their parents. That was a most important alteration, and one which he considered most objectionable. He thought that one of the most useful functions of a minister of religion was, not to wait for a special request, but to go to those haunts of crime and misery, and to tender to the unfortunate inmates the consolations of religion. He thought it was the height of illiberality to introduce enactments which would practically deprive all unfortunate persons professing other religions than that of the State of receiving the benefits of their own particular clergy. He also objected to another Amendment of the House of Lords, which was to give power to the bishop to appoint or withdraw the chaplains of those institutions at their pleasure. Their Lordships had also struck out the clause relating to the keeping of a register, for which he could conceive no reason, except that if it should appear that there was in any prison a large proportion of children not belonging to the Established Church, the public might complain of the injustice of preventing so large a number of prisoners from receiving the visits of a minister of their own denomination, and having divine service celebrated according to their own faith. He regarded the omission of this clause as a part of the system which had led to the other alteration to which he had referred. He believed that the Government took the same view of the question as he did.

SIR JOHN SHELLEY seconded the Amendment.

Amendment proposed, to leave out the word "now," and at the end of the Question to add the words "upon this day three months."

Question proposed, "That the word 'now' stand part of the Question."

MR. NEWDEGATE said, he believed that the Bill, as amended by the House of Lords, was a most desirable measure, and had received the concurrence of the great majority of the magistrates and of the ratepayers. He hoped that the House would not be induced to take a course that would be fatal to the Bill, merely because the House of Lords refused to sanction the in-

*Lord D. Stuart*

troduction of a new principle into our public institutions. According to the practice of our law any prisoner who dissented from the Church of England might claim access for the minister of his own persuasion. That point was freely granted as a concession to the religious opinions of prisoners or of juvenile offenders. Well, that same principle was preserved in this Bill. But the House of Lords had very properly rejected the new principle, that any person who shall declare himself to be a minister of a particular denomination—without being called upon to give any proof of his being really so—shall at once have free access to those schools. Such a power as that would lead to the greatest possible confusion. Before they adopted such a rule as that, they should have a registry of the ministers of the various religious denominations, so as to secure identity. He did not suppose that the House was desirous that Cardinal Wiseman should have a right by law to authorise any clergyman, by the mere virtue of his office, to enter those establishments. To such a principle he hoped the House would never consent in relation to a private Bill. By the Lords' Amendments free access would be allowed to such ministers at the special request of the juvenile offenders or of their parents. The same principle was recognised by our law in respect to all the prisons of the United Kingdom. It would be a most dangerous precedent to allow the introduction of the new principle that was sought for by certain hon. Members. Let the House recollect the marked instance of the Dublin Cemetery Act. He believed it was the conviction of the House that that Act contained the enunciation of no principle that had not been hitherto recognised by the law of the country. Nevertheless, it was subsequently found that there had been surreptitiously introduced into that Bill words which appeared to convey the legality of those titles which had been declared illegal by the Ecclesiastical Titles Act; and that Act was referred to and made use of as a justification for the Papal aggression, and as an argument against the passing of the Ecclesiastical Titles Act. In the present case there was a similar attempt made to give an authorised claim to the clergy of the Church of Rome, by virtue of their office, to enter those public establishments, and to instruct all the children therein. All orphans who unfortunately became liable to the penalties of the law became, as it were, the children of the

State; and unless they believed that those children belonged to another faith, they had a full right to instruct them according to the tenets of the Church of England. With respect to the other Amendment, relating to the rights of the bishops in the appointment of chaplains, it should be recollected that the principle there recognised was in accordance with the general practice of our county gaols. He hoped that the House would not depart from the general practice by inserting new principles and inconsistent provisions in a private Bill.

Mr. J. BALL said, he objected to the Bill altogether, for he thought that its object would be most fitly carried out by the Government measure now before the House.

SIR GEORGE GREY said, that though he did not concur in the second reading of the Bill, because he thought that the principle was one which should be dealt with by a general Bill, yet he assented to it because the Home Secretary did not then think that he would be able to introduce a general measure upon the subject. At his suggestion the Bill was referred to a Select Committee, and when the Committee were appointed they carefully applied themselves to the consideration of the whole question, and they unanimously adopted a clause with regard to religious worship which authorised the ministers of different religious persuasions to attend the different inmates of the establishment, subject to regulations to be made by the visiting magistrates, in order to prevent any irregularity or the access of improper persons to the children of the establishment. The clause also provided that liberty should be given to the children of different persuasions to attend divine service on the Sabbath according to their particular religious convictions. This was the clause which had been omitted by the House of Lords; and when it was brought before the House of Commons the hon. Member for North Warwickshire (Mr. Newdegate) objected to it, but the House affirmed it by a majority. It was said that this was an entirely new principle, but if hon. Gentlemen would refer to the Irish Prisons' Act, the 7 Geo. IV.—["Oh, oh!"]—he would remind hon. Members that Ireland was a part of the British empire, and was entitled to be treated as such—the Irish Prisons' Act gave to the Roman Catholic clergy as well as to Dissenting ministers, free access to the gaols and prisons in Ireland. He saw

papers circulated amongst hon. Members that day, which denied to the Roman Catholic clergy the right to perform divine service except in their own chapels or in private houses. He would, however, refer the House to an Act in which Parliament had fully recognised the right of the Roman Catholic clergy to perform divine service in the gaols and prisons. [Mr. SPOONER: But that Act does not apply to England.] If it were intended now to declare by a vote of the House that it was illegal for the Roman Catholic clergy to perform divine service to our soldiers or to the prisoners in our gaols, he for one could not be a party to such vote. He was sorry that the noble Lord (Lord D. Stuart) had moved this Amendment, because, if carried, it would have the effect of rejecting the Bill altogether. He would be willing to vote with the noble Lord if he confined his Amendment to disagreeing with the Lords' Amendments. And in the event of that proposition being carried, he would not despair of settling matters amicably with the House of Lords in a conference. As, however, there was a general Bill upon the subject, applicable to all the country, he thought there was less necessity for this Bill. He should certainly prefer that the Bill were lost than that it should be passed under present circumstances.

Mr. MILES said, he would be glad to hear how the right hon. Gentleman could contradict the fact that the original clause referred to was not one that would be introducing a new principle into the prison discipline of England.

SIR GEORGE GREY said, he had just been informed that the practice was at present carried out in Dartmoor and other prisons in England.

Mr. MILES said, he was not aware of the fact, but, at all events, those prisons were not regulated by Act of Parliament; they were under the authority of the Secretary of State for the Home Department. He hoped and trusted that the House would not take as a precedent the practice adopted in some of the prisons in Ireland. If the right hon. Baronet would show him that any Roman Catholic or Presbyterian in prison, if he expressed a wish for a clergyman of his own persuasion, was prevented by the law from receiving the visit of such person, he (Mr. Miles) would then admit the necessity of new legislation upon the subject. He, however, defied the right hon. Gentleman to show

him anything of the kind. Why, then, should they attempt to alter the law as regards prison discipline in one particular case? He was sorry that a general law upon the subject was not carried out. We wanted reformatory schools all over the country to be established by a general Government measure. But this was not a Government measure. He hoped that the House would adopt the Amendments of the House of Lords, which only recognised the principle that had been hitherto invariably acted upon, and that hon. Members would not jeopardise a measure which he believed was calculated to confer much advantage on the people.

LORD DUDLEY STUART said, that after the appeal made to him by his right hon. Friend the Secretary of State for the Colonies, he would, if the House would permit him, withdraw the Motion he had made, and substitute for it an Amendment to the effect that this House disagrees with the Lords' Amendments.

MR. MONCKTON MILNES said, he hoped the House would permit the noble Lord to withdraw his Amendment.

MR. LUCAS said, he could not but be struck with the inconsistency of hon. Members on the Opposition side of the House, in objecting to the withdrawal of the noble Lord's Amendment, and yet professing to be anxious for the passing of the measure. He conceived that their object evidently was not to have an industrial Bill, but a proselytising Bill. ["Oh, oh!"] [The hon. Gentleman then quoted several extracts from the *Ragged School Union Magazine* of June and July to justify his assertion.] The concession of those hon. Members to the Roman Catholics went to this extent—that in respect to the children of the Established Church, they were to be compelled to attend the divine service of their Church, but in respect to Roman Catholic children, they were to be permitted to attend the service of a Church to which they did not belong. And yet they admitted that the larger proportion of juvenile criminals in the United Kingdom were of the Roman Catholic religion. This paper also insisted upon it that the very life-blood of these institutions was to diffuse among the Roman Catholic inmates Protestant teaching, and that every obstruction ought to be placed in the way of their receiving Roman Catholic teaching. That was the meaning of the article, and nothing else. And no man could deny, after reading it, that the

Mr. Miles

object of the Middlesex magistrates, in introducing into the House of Lords these Amendments, and so endeavouring to reverse the decision of the House of Commons, was to found an establishment which should receive within its walls a majority of Roman Catholic children under the pretence of reforming them, and refuse to them the best means of reformation—the opportunity of worshipping Almighty God according to the religion in which they had been brought up—which should put in play against them all the means of proselytism with the view of perverting them from the religion they professed, and thus do them the greatest possible mischief which human beings could receive at the hands of the Parliament of this empire. It should be borne in mind that the inmates of this establishment would be vagrants, not felons and criminals. The poor boys would have lived in the constant practice of their religion—they would not have broken any law of morality, or any law of man of any higher character than a police regulation; they would have been punctual in the discharge of their religious duties, and in their attendance on the sacraments of their Church; and the Bill, in its present shape, would have the effect of authorising the police and the bigoted section of the magistrates of Middlesex to take these poor children out of the streets, place them in the hands of Mr. Pownall, and empower him and his fellow magistrates to use all the direct coercion and influence that they could bring to bear in order to pervert them from the religion of their forefathers! It was a gross, a rank injustice. They had now arrived at a time when the Roman Catholics had to consider whether or not they were to be treated like the rest of the people of this country; whether this was a land in which they were to be allowed to live, and to be treated with common fairness and justice; or whether they were to have "aliens" stamped upon their foreheads by such legislation as the House had then before it. For his part he should do everything in his power to defeat this nefarious legislation, and if the Bill passed into a law he should use his utmost endeavours to procure the repeal of the enactment.

LORD ROBERT GROSVENOR said that one of the greatest evils which Parliament had experienced during the present Session was the curse of religious differences intervening to prevent useful

legislation. He appealed to the hon. Member for East Somersetshire (Mr. Miles) not to oppose the withdrawal of the noble Lord's (Lord Dudley Stuart's) Amendment, but allow the House at once to decide upon the question which was really before them, namely, whether it would or would not agree to the Lords' Amendments. Upon the acceptance or rejection of these Amendments depended the fate of the Bill. The measure had been received with considerable favour by the House, and he was certainly most desirous that it should become law as speedily as possible. He himself had assisted in Committee in framing the clause to which allusion had been made, and he was most anxious to give the Roman Catholics every advantage they could reasonably expect in preparing the Bill. The clause had gone up to the House of Lords. That House had taken exception to it, and sent the Bill down in its present state. What he had to consider then was, whether he should assent to the Lords' Amendments or not; in other words, whether the Bill should pass this Session or not. He believed that if the Amendments were rejected, it would be utterly futile in him to attempt to pass it during the present Session. Under these circumstances he had come to the conclusion, though with much reluctance, to give his support to the Amendments. At the same time he could assure the hon. Member for Meath (Mr. Lucas) and his co-religionists that he was ready to aid them in any attempt they might make to obtain that measure of justice of which the Amendments introduced by the Lords deprived them. He could not, however, make up his mind, for the sake of that, to postpone for a year, and, perhaps, indefinitely, a Bill which was founded on far different principles to those of any others that had been presented to the House for the establishment of reformatory institutions, and which, considering the immense number of juvenile criminals who were constantly passing through the prisons of Middlesex, he could not too strongly express his desire to see at once passed into a law.

Mr. ADDERLEY said, that if the noble Lord (Lord D. Stuart) withdrew his Amendment, then they would come at once to the question, whether the Lord's Amendments should be agreed to or not. Upon that vote would depend, not alone the clause to which reference had been made, but the fate of the Bill itself; for

the clause which was introduced in Committee, which was passed by that House afterwards, and which had subsequently been rejected by the House of Lords, was notoriously so impracticable a clause that its adoption would be fatal to the working of the Bill. He had the highest authority, the authority of practical men, for saying so. He had no wish whatever to act unjustly towards Roman Catholics. On the contrary, he had been anxious to introduce clauses that would give them the most liberal treatment; but he could not imagine that, with that object in view, the hon. Member for Meath (Mr. Lucas) would desire to adopt an impracticable clause. The clause they were about to vote upon was to the effect, that the criminal children should not attend a religious worship which was contrary to their religious principles; secondly, that they should be taught in the creed of their parents, which, from his own experience in a majority of cases, was direct infidelity; not the infidelity of carelessness, but of reason; in short, a rational infidelity, and so far the clause insisted upon their being brought up in the creed of infidelity; and, thirdly, that all ministers of every persuasion should have a right to enter at any time, and on Sundays if they thought fit, in order to perform service within these institutions. Now, when the Rev. Sidney Turner, the Governor of Red Hill Reformatory School, the principal institution of the sort in this country, read the debate which led to the insertion of this clause, he said—

"I am astonished that any man in his senses, having a knowledge of the working of these institutions, should have consented to the adoption of such a clause. If it be made to form part of the Bill, it will have the effect of shutting up the institution at Red Hill, for it will render the government of the institution altogether impossible."

The Amendments which the Lords had inserted would put the institution on the same footing as a prison. There were, however, some words in the Amendments which were offensive—he alluded to the restrictions they imposed upon the introduction into these institutions of improper persons. These words might seem to connect the ministers of religion with improper persons, and they had better have been omitted.

Mr. W. WILLIAMS said, he could assure the hon. Member for Meath that he was entirely mistaken in supposing that the Middlesex magistrates desired to make this school an instrument of proselytism. He would venture to say for them, and

particularly for Mr. Pownall, to whom the hon. Member had referred, that the thought had never entered into the mind of any of their number. On the contrary, he believed they were actuated by the simple motive of desiring to prevent the commission of crime by bringing under healthy moral influence that portion of the population from whose ranks the class of criminals had been hitherto recruited and supplied. He (Mr. Williams) had voted for the clause rejected by the House of Lords; but rather than lose a measure of such value, he should not hesitate to support the Bill in its present shape.

Amendment, by leave, *withdrawn*.

Main Question put, and *agreed to*.

Amendments *agreed to*, as far as page 13, line 36.

Page 13, line 36, the next Amendment, (Leave out from "That" to the end of the Clause, and insert "if any juvenile offender shall be of a religious persuasion differing from that of the Established Church, a minister of such persuasion, at the special request of such juvenile offender, or at the special request of his or her parents, shall be allowed to visit him or her at proper and reasonable times, under such restrictions imposed by the Committee of Visitors as shall guard against the introduction of improper persons and shall prevent improper communications,") read a second time.

SIR JOHN PAKINGTON said, that having taken part in the discussion of the clause which the Lords had rejected, and having also voted in favour of that clause, he trusted the House would allow him to explain the course which he deemed it his duty to take on the present occasion. When that clause was discussed, he stated his opinion that, in giving religious instruction to the unfortunate children in these establishments, they must either be considered children of the State and be taught the religion of the State, or if their religious differences were to be respected, legislation should not stop short of the clause they were then considering. Upon that ground he gave his vote in favour of the clause. But, the House of Lords had now suggested another course, and the alternative before the House was either to agree to the Amendments of the Lords or abandon the Bill altogether. He was quite of the same opinion as his noble Friend (Lord R. Grosvenor), and he could not take upon himself to incur the responsibility of endangering the passing of the Bill. He attached the greatest possible

*Mr. W. Williams*

importance to the measure; he was most earnestly desirous of seeing it passed into a law; and, under these circumstances, he must take the same course as his noble Friend, and give his vote for the Lords' Amendments.

LORD DUDLEY STUART: I beg leave to move that this House do disagree with this Amendment of their Lordships.

LORD JOHN RUSSELL: I am not now going to argue this question, but I wish just to observe that there is another course open to this House beside that pointed out to us by the right hon. Gentleman opposite (Sir J. Pakington), who said that we must either agree to the Lords' Amendments or the Bill would be lost altogether. There is another course which the House of Lords may take, and that is, not to insist upon the adoption of their Amendments. It appeared to me that the Bill as it went up from this House was a very reasonable Bill. I also thought this clause a very fair one; and as the expunging of it seems to imply that whatever number of persons there may be of a different persuasion from the Established Church in any one of these reformatory institutions, they cannot ever be allowed to have divine service performed, or instruction given according to their own religious convictions, I certainly must disagree with this Amendment.

MR. NEWDEGATE said, he thought the House of Lords had exercised a very wise discretion in refusing to enact that religious worship should take place in these schools according to every religious creed. At the same time, the omission of such a positive and declaratory enactment did not necessarily carry the effect of an absolute prohibition of such a proceeding.

MR. VINCENT SCULLY said, he should support the proposition to reject the Lords' Amendment. He would not do so in any sectarian spirit, but simply because he wished to see justice done to all classes of his fellow-countrymen.

Motion made, and Question put, "That the House doth agree with The Lords in the said Amendment."

The House divided:—Ayes 151; Noes 124: Majority 27.

The next Amendment *agreed to*.

The last Amendment, page 15, (Leave out Clause 31,) read a second time.

Motion made, and Question put, "That this House doth agree with The Lords in the said Amendment."

The House divided:—The numbers re-

ported by the Tellers were, Ayes, 202; Noes 67: Majority 135.

Notice taken, that Mr. Grenville Berkeley, the Member for Evesham, had given his voice with the Noes, and had voted with the Ayes.

Whereupon Mr. Speaker directed his vote to be recorded with the Noes:—Ayes 201; Noes 68: Majority 133.

#### THE CHARITY COMMISSION—EXPLANATION.

Mr. E. ELLICE said, he was sorry to understand that something which had fallen from him on the preceding evening as to the Charity Commission, had been supposed to have reference to the able and excellent gentleman who was at the head of that Commission—Mr. Commissioner Erle. So far from anything disrespectful being intended by him towards Mr. Erle, the House would recollect that he had spoken of Mr. Erle in terms such as he believed him fully entitled to, from the able, energetic, and zealous manner in which he had performed, so far as the powers given to him by Parliament permitted, the duties of his office. His (Mr. Ellice's) complaint had been that sufficient power was not intrusted to Mr. Erle and his brother Commissioners; for certainly it was impossible to place the administration of the department over which he presided in abler, safer, or better hands. Some misapprehension had doubtless arisen from his having, inadvertently, referred to his right hon. Friend (Sir G. Grey) as being still the chief unpaid Commissioner, whereas the duties of his right hon. Friend's new office, requiring the whole of his time, had rendered him unable to remain upon the Charity Commission. What he had wished to express upon this point was the hope that, when it should be found necessary to replace his right hon. Friend on the Commission, it would be in the person of some gentleman having a seat in that House, and to whom the House could appeal on any occasion when it should be found necessary to make observations upon the working of the Commission.

#### THE NEWSPAPER STAMP—QUESTION.

On the Motion for going into Committee of Supply,

SIR JOHN SHELLEY said, he rose to call the attention of the House to the threatened prosecution of Mr. Novello, the publisher of the *Musical Times*, for an alleged violation of the Newspaper Stamp

Act; and at the same time to ask the hon. and learned Attorney General, whether proceedings were to be instituted against him. After the Resolution to which the House had come on the 16th of May—

“That it is the opinion of this House that the Laws in reference to the Periodical Press and Newspaper Stamp are ill-defined and unequally enforced, and it appears to this House that the subject demands the early consideration of Parliament,”—

he thought it right to call attention to a case which would show that the law was ill-defined and unequally enforced. The gentleman whose case he was about to advocate was the publisher of a very harmless periodical, called the *Musical Times*, which contained some articles of news. On the 8th of May Mr. Novello received a letter from the Board of Inland Revenue, stating that he had broken the law, and threatening him with a prosecution. He accordingly wrote to Mr. Timm as follows—

“London, 69, Dean Street, Soho,  
“May 11, 1854.

“I have to acknowledge your letter of May 8. I have delivered to the Stamp Office stamped and unstamped copies of every number of the *Musical Times* for the last ten years (as compelled by law to do), and each of these copies has been thoroughly examined by your officers to ascertain how much of it was liable to duty for advertisements, so long as that impost was chargeable; and I suppose that, both before and since, it has been examined to see that it contained no blasphemous and seditious libel, as I am compelled still to deliver a copy for the latter purpose. During these ten years the news contained in the paper has always been of precisely the same kind, and your Office (as I have shown) was thoroughly acquainted with its nature; and, as no objection has been made, I must suppose that the *Musical Times* has, during ten years, been published with the sanction of your Office. I should be glad, therefore, to be favoured by your pointing out what particular passage of news you now consider as making the paper liable to be all printed upon stamps. The *Musical Times* has always consisted ‘principally’ of a piece of music, for which the same price is paid, whether printed alone, or whether accompanied by the matter of temporary interest, which is given away with it only when first published. The music being that for which the money is paid in all instances, you will perceive that, supposing sixteen or more pages of advertisements to be given with the music, the *Musical Times* would still consist ‘principally’ of the music, which is what people pay for.”

In answer to that he received a letter from Mr. Timm, offering to submit his letter to the Board, to which he replied—

“I am obliged by your offer to submit my representations to the Board, and I feel all the inconvenience of their position, in having to administer a law which the Judges are unable to



worthy of the consideration of his hon. and learned Friend the Attorney General; and he wished to know whether it was the intention of his hon. and learned Friend to institute any prosecution against Mr. Novello; or whether he proposed to bring in any Bill to set at rest this disputed question with regard to publishers and periodicals?

The ATTORNEY GENERAL begged to say, that the only reason why Mr. Novello had not received an answer to his communications to him was, because a reply to that gentleman involved this consideration—that the same measure dealt out to Mr. Novello must be dealt out to everybody else. The whole matter connected with this stamp duty had been under his anxious consideration since the Resolution of the House upon the subject. With reference to the particular instance brought under the notice of the House by his hon. Friend, the facts were these:—in April last, or early in May, the case of Mr. Novello was submitted to the law officers of the Crown. It appeared that the *Musical Times* not only contained items of intelligence connected with music, but that Mr. Novello published advertisements very largely, so that very frequently one-half of his paper appeared in the shape of advertisements, which, whatever might be the opinion of the publisher, brought his paper directly within the stamp duty. The fact that Mr. Novello was evading the law in this particular was brought under his attention, and the view he had taken was, that, so long as the Government allowed certain privileges to class publications, Mr. Novello was entitled to indulgence; but that, if he sought to evade the law by publishing advertisements, then he ought not to be treated with the same leniency as others, and it was right that the law should be enforced against him. The law officers of the Crown recommended that, as this evasion of the law might have been an act of oversight, a letter should be written to Mr. Novello on the subject, pointing out that, instead of keeping within the limits of a class publication in the *Musical Times*, he was publishing advertisements, and so evading the law. Such a letter was written, and there the matter ended. His right hon. Friend the Chancellor of the Exchequer had referred it to him to take into consideration what course the Government should pursue upon the subject generally. The question was one of some difficulty. He had, however, quite made

up his mind as to the course which ought to be pursued by the Government, and, but for the unfortunate illness of the right hon. Gentleman, who had been prevented from attending the House during the week, he should have put him in possession of his views. As he had already stated, he had a very clear view indeed of what ought to be done, but, until he had communicated on the subject with the Minister at the head of the financial department, he thought he should not be justified in stating to the House at the present moment what he should be quite prepared to state on another occasion. For the same reason, he had not communicated to Mr. Novello what was to be done in his particular case. At the same time, he might say that he felt quite sure there was no disposition whatever to visit that gentleman with respect to the past. As to what would be done for the future, that, of course, must depend upon the decision come to upon the general question.

Mr. MILNER GIBSON said, he would take the liberty of submitting to the Government whether, in the uncertain state of the law, it would not be wise to suspend all pending actions on this question, and that no new ones should be instituted until the Government had decided on the course they intended to take. That would be a reasonable course, and one for which there was precedent. He would press on the noble Lord (Lord J. Russell) to use his influence with his Colleagues to agree that no actions under the Stamp Laws should be instituted till the measure of the Government was decided on. He did not see why the Government should delay to settle this question. It was a simple, and by no means a complicated question, and he believed that the hon. and learned Attorney General and himself, or any other Member of the House, would in three days settle the whole question, so that it should never be heard of again. He knew what the views of the Attorney General were from the votes he had given when he was not connected with any Government; and his private views were always in their favour when he was an independent Member of the House, and on conviction he was with them. The Board of Inland Revenue was now placed in a very awkward position before the public; threatening prosecutions which they did not proceed with, and he thought for the sake of that House, if not for the public, the Government were bound to take an early opportunity of settling

this question. He should like to know where the obstruction was, and why the matter should be kept in hot water when it could be settled by ceasing to tax news and substituting a postal charge for the transmission of papers—a plan which was pursued in all countries except this. The Post Office could very easily settle the matter, and he could confidently intrust it to Mr. Rowland Hill. He would therefore appeal to the Government to do something in the matter this Session, and if not, in the very beginning of the next.

LORD JOHN RUSSELL said, that in the absence of his right hon. Friend the Chancellor of the Exchequer, he could only say that his right hon. Friend had paid most anxious attention to this subject, and was very desirous the question should be settled in a manner which should be for the benefit of the community at large. His right hon. Friend, however, was, he believed, very far from thinking, with the right hon. Gentleman the Member for Manchester (Mr. M. Gibson), that the subject was one of extreme simplicity, and one which might be settled in a few hours. On the contrary, he saw many difficulties in the way which ought to be provided against in any plan proposed. This House had resolved that the law was at present ill-defined and unequally enforced, and what his right hon. Friend (Mr. M. Gibson) proposed—that everybody who chose to evade the law should be left without prosecution, while those who complied with it should suffer the penalties attending obedience to the law—would certainly not be the best means of equally enforcing the law. If they adopted this course, the Government might well be accused of favouring those who sought to evade the law, and of inflicting hardship and injustice on those who complied with it.

MR. COBDEN said, that the Government might think that this question was often introduced unnecessarily; and he protested against its continuing as it was, on account of the trouble it gave to the Government. The question was constantly raised with reference to persons who were obstructed in the dissemination of news; but there was another side of the question, and the hon. and learned Attorney General would find difficulties raised by papers which were already established, which were stamped, and which complained against the toleration of unstamped publications. He had received a letter from

*Mr. M. Gibson*

the editor of the *Warrington Guardian*, which stated, "That he wished he would read to the House the inclosed advertisement, and ask why he should be made to pay a penny on all his papers, while Holt paid only when he liked." The advertisement inclosed was of a journal called *Holt's Army and Navy Despatch*, which professed to give all the events of the war. [The hon. Gentleman read the contents of the paper, which consisted of some most stirring incidents, real and supposed, connected with the war. The table of contents concluded with the words, "and all the news of the war, price 1d."] His correspondent complained that when people would read about nothing but the war, an unstamped paper should be allowed to give all the news of the war. If the Attorney General carried out his intention with regard to indulgence to unstamped papers he would find difficulties in the way from established papers. If he meant that papers which confined themselves to a particular subject should be exempt from that stamp, numbers of publications would spring up, professing to give only class news, while by means of leaders, and in other ways, would slip in general news, and it would be difficult to define what was class news. He would, therefore, put it to the Government, as every one professed a desire to encourage the instruction and information of the people, whether they should any longer hesitate as to the course they would take on the question. There was no doubt as to what ought to be done. Let all newspapers be unstamped, and when they were sent through the Post Office, let a penny stamp be put upon them. It was no new principle or plan, for it was done already in the case of the *Athenæum*, *Punch*, &c., which had stamped and unstamped editions. It was a very simple plan, for you had only to put the whole of the newspapers on the same footing, and let Mr. Rowland Hill and the Chancellor of the Exchequer arrange the rest of the matter, which could be done in less than three days. He hoped that the Government would come to a decision on the subject in a short time.

#### MORNING SITTINGS—THE COUNT OUT.

MR. BOWYER said, he wished to bring under the attention of the Government a circumstance which seemed to affect the constitutional privilege of independent Members of that House. The only day on which independent Members had the op-

portunity of bringing their proposals before the House was Tuesday, and on that day there were always morning sittings, so that the evening sittings were shortened, or indeed in many cases there was no House at all, because Members were tired and fatigued by the morning sitting, and he thought that it would be desirable not to make any arrangement which had a tendency to prevent Motions being brought forward by independent Members. He wished to advert to a circumstance which occurred in that House on Tuesday last. On that day the House was counted out, and he attributed that to the fact of Members being tired by the morning sitting. At the time he was disposed to find fault with the Government for so managing that the House should be counted out, but he had since been informed that the Government had nothing to do with it, but that an hon. Member took the irregular course of locking the door to prevent Members coming in to make a House. He hoped that such an occurrence would not take place again, and he appealed to the Government to make some arrangement by which there would be a possibility for independent Members to exercise their constitutional privilege.

MR. MONCKTON MILNES said, he thought the hon. Gentleman who had just spoken was most unfairly treated on Tuesday evening, and that it was most indecorous in the House to have been counted out during the discussion of a Motion of so much importance. The result of that was, that the elaborate speech of the right hon. Gentleman the First Commissioner of Works (Sir W. Molesworth), which laid down principles of policy which were entirely new, went forth to the world without reply. He did think that when consequence was given to a debate by a Cabinet Minister making a speech of such importance, the Government ought to take care that it was not abruptly terminated by a "count out."

MR. J. G. PHILLIMORE said, he fully exonerated the Government from having had anything to do with the "count out," but he thought that the opinions contained in the speech to which the hon. Gentleman (Mr. M. Milnes) had referred were of such importance that it would, in his opinion, be desirable that some other Member of the Government should state to the House if those principles were shared by the right hon. Gentleman's Colleagues.

LORD DUDLEY STUART said, he

thought that the complaints which had been made with regard to morning sittings were not altogether without foundation, and he agreed that morning sittings interfered with the opportunity afforded to independent Members of bringing forward Motions, for the evening sitting was in consequence shortened by two hours. He begged to call the attention of the Government to the fact that these morning sittings might be an illustration of the proverb, "the more haste the less speed," for, if Members were deprived of the opportunity of bringing on their Motions on Tuesdays, they would take the opportunity of doing so upon going into Committee of Supply. He did not speak quite disinterestedly on this subject, as he had a Motion with regard to the Russo-Dutch loan on the paper for next Tuesday, and if he should be deprived of the opportunity of bringing on the question then, he should most certainly do so on the first night of Supply. A statement had been made to the House by the hon. Member for Dundalk (Mr. Bowyer), that on Tuesday last, when the House was counted out, means had been adopted to interfere with the free access of Members, and the House ought to know who was in fault. Was it one of the doorkeepers? If it were, he apprehended that there was cause for severe censure. He had, however, been informed that an hon. Member of that House had gone to the door, got the key and locked it, and then, having resumed his place, had called attention to the fact of there not being forty Members present. It was a very ingenious trick for a parcel of schoolboys, but he did not think that it was consistent with the dignity or character of that House.

MR. SPEAKER said, that inquiry had been made, and it was discovered that the door had not been locked by any of the doorkeepers. The custom had been for the key to be left in the door, but he had given instructions, in order to prevent the repetition of such a circumstance, that for the future the key should remain in charge of the Serjeant at Arms.

MR. GOULBURN said, he hoped that the door would not be locked so as to prevent Members from leaving the House.

SIR GEORGE GREY said, that looking at the hour to which the House had sat on every Tuesday excepting last Tuesday, since morning sittings on that day had commenced, he could not think that the opportunity to private Members for bring-

ing forward Motions had been much interfered with.

Mr. DISRAELI said, that he had made an effort against the too frequent appointment of morning sittings at this period of the Session, and he believed that every hon. Member who had lamented the loss of an opportunity of beginning or concluding a speech last Tuesday had voted against his Motion.

*Motion agreed to.*

#### SUPPLY—MISCELLANEOUS ESTIMATES.

House in Committee of Supply; Mr. BOUVIER in the Chair.

(1.) 7,550*l.*, Statute Law Commission.

Mr. M'MAHON said, he wished to call attention to the great public convenience which would arise from including Ireland in the labours of the Commission, and thus assimilating the Statutes of the two countries. He had been assured by one of the Commissioners that this might be effected without the least difficulty.

Mr. HEADLAM said, he begged to inquire whether the Government would have any objection to inform the Committee of their intentions with respect to consolidating the Statute laws. He wished to know what the intentions of the Government were with regard to the Commission—if it was appointed with a view of establishing a complete code, a scheme which he had always considered wild; or if for the purpose of framing a Consolidation Bill?

THE ATTORNEY GENERAL said, he was quite ready to state what were the intentions of Her Majesty's Government. The Commission which was appointed last year for the purpose of consolidating, as far as possible, the Statutes, was only an experiment. The Government wished to ascertain whether that great work could be accomplished within a reasonable time, and what would be the best way of commencing it. Several gentlemen, therefore, were employed for that purpose under the directions of the Lord Chancellor. They were to deliberate upon the best method of carrying into effect the intentions of the Government with regard to the consolidation of the Statutes. Their labours, he was happy to say, had been very successful. He had had a communication that day upon the subject with the Lord Chancellor, who stated that he was eminently pleased with the labours of the Commissioners. The Lord Chancellor stated to him that he intended to lay upon the table of the

*Sir G. Grey*

House of Lords, very shortly, as a specimen of their labours, one of the Consolidation Bills which had been framed by the Commissioners. He (the Attorney General) believed that it was the intention of the Lord Chancellor to propose the appointment of a Commission consisting of the Lord Chancellor, certain law Lords, the law officers in that House, and one or two lay Gentlemen, Members of the House of Commons, who should be unpaid Commissioners, and who would be aided by one paid Commissioner, whose business it should be to attend constantly to matters of detail. It would be competent to that Commission to guide certain draughtsmen in the framing of measures for the consolidation of the Statutes. Under their superintendence measures for reducing to the smallest possible compass the most important Statutes would be proposed in the first instance. That would be a great service to the country. They would propose to expunge from the Statute-book a number of Statutes which now incumbered it. They would then proceed to the framing of one measure which would comprehend, in the smallest possible compass, all the existing Statutes relating to one particular division of the laws. He believed that the proposed consolidation of the Statutes would confer immense advantages upon the country.

Mr. J. G. PHILLIMORE said, he regretted that the hon. and learned Attorney General had held out no hope of this country obtaining a code of laws similar to that which Napoleon gave to France. His hon. and learned Friend the Attorney General spoke of the English laws as if they were different from, and more difficult and complicated than, those of any other country. But the truth was, that the laws of France were quite as complicated as our own before Napoleon commenced his magnificent work of codification, which would preserve his name when his military conquests were forgotten. Did the Attorney General propose, like Napoleon, to assemble the great jurists of the country for the purpose of producing a code of our laws? On the contrary, he proposed to employ in the consolidation of our laws men who were remarkable for their narrow and shortsighted views on the subject of general jurisprudence—namely, those who were engaged in the administration of justice in this country. The proposed plan could only produce most insignificant results. He wished that the Attorney General,

than whom no one was more fitted for the task, would apply his mind to the codification of our laws. His great abilities would enable him to raise a magnificent monument of legislation, which would be for the benefit of the country, and would carry his name down to the remotest posterity. Mr. Hallam, in his work on the Middle Ages, regretted that England had not produced her Tribonian, under whose hand the unintelligible jargon of our conflicting Statutes might have been compelled to give place to a simple and intelligible code. He (Mr. J. G. Phillimore) did not wish to offer the slightest opposition to the Vote proposed, for he thought it was better that something should be done than nothing.

Mr. EWART said, he hoped that the proposed Commission would propose a measure which, for the conciseness and clearness of its language, would be a model to future Legislatures. He thought that nothing was more disgraceful than the language of the Acts which had been passed in this country in recent times. They were fuller of complication, parentheses, and tautology, than any other documents in the country; whilst it was obvious that those were the very faults that ought to be most specially avoided in our Statutes. The Statutes of Edward I., Edward II., and Edward III., were patterns of brevity and clearness. There was an avoidance in them of those parentheses which confused the modern Statutes. He hoped that the Tribonians who were about to be appointed to revise our laws would produce measures which would have some approximation to those great monuments of jurisprudence which regulated the lives of the ancient Romans.

Mr. W. WILLIAMS said, the present Commission was appointed twelve months ago, and it was high time that a Report of their proceedings should be laid on the table of the House.

CAPTAIN SCOBELL said, that the present unwieldy state of the Statute-book was owing in a great measure to separate Bills being proposed for England, Ireland, and Scotland, instead of proposing one Bill for the three countries. He hoped the Government would direct their attention to that very objectionable mode of legislation.

Mr. CRAUFURD said, if the hon. and gallant Gentleman would attempt to draw a Bill which would apply to all parts of the United Kingdom, he would find it was not so easy a matter as he seemed to suppose.

He (Mr. Craufurd) could not conceal remarks of the hon. and learned for Leominster (Mr. J. G. Phillimore) to the works of the Consolidation Commissioners. Before the work of codification could be commenced, it was necessary to sweep away all the absurd, obsolete repealed parts of the Statutes. That work he believed the Commissioners were eminently qualified. The hon. member for Lambeth (Mr. W. Williams) complained that no Report from the Commissioners had yet been laid on the table of the House, but the fact was, they had presented two Reports as long ago as March, and both of them were on the table. They had not yet been read, and of that he (Mr. Craufurd) was sure. The hon. Gentlemen had a right to censure. He hoped that the department upon which was devolved the duty of directing the preparation of the Reports would take care that they were printed and delivered to hon. members without delay.

Mr. M'MAHON said, he could not see that there would be no difficulty in consolidating the Statute law of Ireland with that of England. Up to the Union the laws were mostly copies of the laws of England, and he regretted to find that was not the intention of the Government to include Ireland in the proposed measure of consolidation.

THE ATTORNEY GENERAL said, that the hon. and learned Gentlemen might not infer that that would be the case. He was most anxious to assimilate the laws of the two countries, but there were many instances in which such a course was impossible. When the measure was proposed, it would be seen how far it could be made applicable to Ireland.

Vote agreed to, as were also—

(2.) 900*l.*, Brehon Laws Commission (Ireland).

(3.) 23,700*l.*, Patent Law Amendment Act, Salaries, &c.

Mr. APSLEY PELLATT wished to know whether any part of the 3,050*l.*, which was down in the Estimate under the head of "compensation," was enjoyed by persons who also enjoyed advantage under the new Act?

THE ATTORNEY GENERAL said, that the Vote proposed for expenses of the Patent Office was certainly larger than had anticipated, and would be necessary under the old system, the fee which the clerks received on each patent which passed was 8*l.*, which in the year

ed, on an average, to about 3,000*l.* for each of the law officers, and, as they had no salaries, this was considered as a sort of compensation for their services. Under the new system, by which the expenses of obtaining a patent were reduced from 300*l.*, to 25*l.*, the fee payable to the particular law officer who passed the patent was reduced by Lord St. Leonards, who was then Lord Chancellor, from 8*l.* to 6*l.*, but the increase in the number of patents consequent on the diminution of the expense was so large that the average amount of the law officers' fees was greater than before. When the present Government came into office, the Lord Chancellor and the Master of the Rolls took the matter into their consideration, and exercising the power given to them by the Act, they reduced the law officers' fees to one-half—2*l.* for the provisional specification, and another 1*l.* for granting the warrant for the patent. Under the old system, all the law officers had to do was, to sign his name to the warrant; but now, he had to consider the provisional specification, and to see whether it stated properly the nature of the invention and the mode in which it was to be carried out; so that not only had the amount of the fee been reduced, but the duty to be performed had been increased. With regard to the average amount of the fees received, he would at once frankly state, that last year they amounted to 4,000*l.* for each of the law officers, instead of 3,000*l.*, as before. He could not help thinking, however, that that increase was the result of the great influx of patents consequent upon the facilities given to inventions by the new system, and which had been dammed up, as it were, under the old law. That great influx could scarcely be expected to continue every year in future, so that ere long the fees would probably be reduced in the aggregate to about the same amount as before the new law came into operation.

Mr. W. WILLIAMS said, he considered the sum of 10,500*l.* for fees payable to the law officers of the Crown a very extraordinary amount, and it appeared from the explanation of the hon. and learned Attorney General that the total sum was a mere guess. He hoped the Vote would be delayed until the Secretary of the Treasury could furnish satisfactory information as to the sum which would be required. There was also an item of 4,700*l.* for incidental expenses, upon which he should like to receive some explanation.

*The Attorney General*

Mr. J. WILSON said, he considered that the Committee, so far from seeing any good reason to object to the Vote, or to the general arrangements connected with the law of patents, ought to regard them with much satisfaction. The cost of patents had been reduced from 300*l.* to 25*l.*, but to such an extent had the public availed themselves of the various improvements which were daily taking place in the several departments of industry and science, that a sum of no less than 64,000*l.* had been paid into the Exchequer in the shape of stamps last year, in connection with patents; a source from which not one single farthing had ever been placed to the public credit before. With respect to the 10,500*l.*, it was impossible to say how many patents would come in next year, and consequently what the charges of the Patent Office, for fees, would be. The amount was the nearest which could be arrived at by an estimate. With respect to the sum of 4,700*l.*, it was almost impossible to furnish the particulars. It was the sum required to defray the whole expenses of the office. He should, however, add, that no matter what the amount of the Vote might be, that amount of money only which would be required would be expended.

Mr. W. WILLIAMS was of opinion, that if the fees of the law officers of the Crown were paid in the shape of a regular fixed salary, then there would be no necessity for guessing with respect to what would be the probable expenditure.

Mr. HEYWOOD said, he believed the number of patents would be very much increased within the next two years, as he understood the proprietors of the Crystal Palace intended to give every facility for exhibiting patents in that building. He did not think there was any limit to mechanical invention in the present day. Within the last day or two he had heard of a gentleman in Lancashire who had invented a machine for excavating coal by steam power.

SIR HENRY WILLOUGHBY said, he wished to know if this was the only and the usual mode of paying the legal officers of the Crown, or whether it was mixed up with other payments. The mode of paying by fees he considered to be quite contrary to the system of legislation which was at present in vogue, and he could not understand why there should be these exceptions. He wished, therefore, to ask the noble Lord the President of the Coun-

oil, whether the question of paying the legal officers of the Crown by direct salaries had been under the consideration of the Government.

THE ATTORNEY GENERAL said, there was no doubt that this sum did not constitute the whole amount which was paid by fees to the legal advisers of the Crown for professional work. It was well known that no legal practitioners were so ill paid for the amount and importance of the work done by them as the law officers of the Crown. The fees paid to them were so small that no other practitioners would be willing to take such arduous and important questions for so small a remuneration. When compared with the fees paid to other professional men in private practice, the fees received by the legal officers of the Crown were ludicrously small. The work of drawing out patents was occasionally arduous and important, requiring a great deal of research. He was, however, bound to state that the fees embraced by the present Vote were not the sole payments made to the law officers of the Crown.

LORD JOHN RUSSELL said, the Committee on Salaries had recommended that the law officers of the Crown should be paid by salary, and this matter had been under the decision of the Cabinet; but after careful deliberation, they had come to the opinion that it was not advisable to change the present system. He was of opinion that neither of the courses which could be pursued was so good as the one which was adopted at present. If salaries were given, they would be inferior to the amount which many eminent men in the profession might make by private practice; the consequence of which would be, that the offices of Attorney and Solicitor General would be refused by men of the highest authority, and that Government and the public interest would also be sufferers, inasmuch as Government would be obliged to have recourse to any man of high reputation in the law, who was enjoying a large practice, and they would have to pay him the fees which he usually received for his other business. The result of this would be that Government would have more to pay than they had under the present system, which he, for his own part, believed had worked beneficially for the public interest.

MR. W. WILLIAMS said, he considered the explanation of the noble Lord not satisfactory. Why not pay the law offi-

cers of the Crown a salary as well as the Lord Chancellor, and all the other officers of the State? No one would complain of paying them a liberal salary. He quite agreed with the noble Lord, that the Government should have the services of the most eminent men in their profession. The offices of Attorney and Solicitor General were always considered as stepping stones to the bench.

Vote agreed to; as was also the next Vote—

(4.) 78,815*l.*, Merchant Seamen's Fund.

(5.) 25,500*l.*, Battersea Park.

LORD ROBERT GROSVENOR said, he did not intend to oppose the present Vote, but he wished to call the attention of the Committee to a question of deep interest to the constituents of every metropolitan Member—namely, that of metropolitan improvement. Up to the present time it had been the custom of the First Commissioner of Works to undertake what were called "metropolitan improvements," and the source from which the expenses of those improvements were paid was sometimes by borrowing money from the Exchequer Loan Commissioners, sometimes by advancing it from the Consolidated Fund, and at other times it was provided from resources which it was not necessary to particularise. Latterly it had been his lot to bring several metropolitan improvements under the notice of Government, and in 1850 he called upon the Chief Commissioner of Works, under the Government of his noble Friend the President of the Council, for the purpose of inducing him to undertake the formation of a park at Finsbury. The proposal was favourably entertained, but had not been carried into effect. In the present year the Government decided that, although the improvement might be necessary, it would be inexpedient for them to bring the subject of the Finsbury Park before the House. His right hon. Friend (Sir W. Molesworth) stated to him that the Chancellor of the Exchequer was of opinion that it was not fair to carry out metropolitan improvements by means of the money levied from the general taxes of the United Kingdom. Now, in that opinion he fully concurred; but the Government declined either to undertake these improvements at all, or to give the metropolis the necessary powers to undertake them. The right hon. Baronet (Sir W. Molesworth) said that the matter was in the hands of the Chancellor of the Exchequer; that he was

principle he might depend upon it that he would be required to carry it out in other places.

Mr. W. WILLIAMS said, the proposed park at Battersea would confer great benefit upon a large number of human beings, there being about 500,000 persons in the metropolis on the Southwark side of the river who had no means whatever of resorting to a place where they could inhale the fresh air. Battersea Park was remarkably well situated on the banks of the Thames, and a large portion of the land had been already purchased for it. He did not support this Vote because he had the honour to represent persons in the neighbourhood, but upon public grounds. A large quantity of land was purchased for Battersea Park, and he had no doubt the land which the Government would have the power to dispose of would turn out most remunerative. No loss whatever would accrue to the public from this undertaking, and he (Mr. Williams) would raise no objection whatever to a vote for Finsbury or any other park, if it could be shown that such investments would be equally remunerative and useful. A great amount of money was spent to buy Holyrood Park for the citizens of Edinburgh, and money for the same purpose had since then been expended. As much as forty-five years' purchase was given for ground there. He hoped the hon. Member for Glasgow would not persevere with his Amendment. Why did not the hon. Member object to 15,000*l.* for Hyde Park, St. James's Park, and the Green Park, which might be said to be entirely for the gratification of the aristocracy. He hoped the Government would turn their attention to the whole question during the recess, but, in the meantime, he hoped the hon. Gentleman would withdraw his Amendment.

Mr. DUNCAN thought his hon. Friend the Member for Glasgow (Mr. Hastie) had some grounds for his objection, considering that the large sum of 90,000*l.* for a park had been subscribed in that city, and nothing whatever was granted by Government; at the same time he would not advise his hon. Friend to divide the Committee on the Vote, although he was perfectly right in calling the attention of the Committee to the question.

Mr. CHEETHAM said, his hon. Friend the Member for Lambeth (Mr. W. Williams) did not put the matter quite fairly. In his opinion the real question should be, who

*Mr. Spooner*

were the proper parties that ought to provide the money for a public park for the recreation of people in the neighbourhood of Battersea? When the people of Manchester proposed to raise the large sum of 390,000*l.* for a similar purpose, only 3,000*l.* was granted by Sir Robert Peel towards the object. He thought it was high time for hon. Gentlemen who represented large constituencies to set themselves against such Votes as the present, which had reference only to the metropolis or its neighbourhood.

Mr. JAMES M'GREGOR said, that the hon. Member for Lambeth had recommended to the Government for its consideration the general wants of the metropolis in this respect; but he did not call attention to a special improvement which was much required. He believed the right hon. Baronet the First Commissioner of Works could tell them that already a large sum of money was set aside for the construction of a new road between London and Westminster Bridges on the Southwark side of the river, and no steps had yet been taken to carry out that undertaking, which was most urgently needed. He was afraid that, if something was not done soon, the opportunity would be lost altogether, as he believed that there were some conditions as to its completion within a certain time annexed to the grant. He should be glad to hear if the Government had any explanation to give upon that subject.

SIR WILLIAM MOLESWORTH said, it was perfectly true that a sum of 80,000*l.* had been set aside for the purpose of making improvements in Southwark, although those improvements were not of the precise character mentioned by the hon. Member. It was true that the propriety of making a new road between London and Westminster Bridges was brought under his notice, but that would cost more than five times 80,000*l.*, and it was impossible, with the amount in hand, to attempt anything like such a work.

Mr. BRADY said, he wished to call attention to the fact that, since the Crystal Palace had been opened, there had been a considerable increase of traffic in the borough of Southwark; the inhabitants felt great inconvenience, and he knew to a certainty that trade had been much injured from the circumstance of the proposed road not having been carried out. They were now about to advance a large sum of money

for the improvement of Chelsea, Battersea, and the neighbourhood. He wished to know who lived there? It had been urged by the hon. Member for Lambeth (Mr. W. Williams) that the improvement which would be introduced into Battersea would be a justification for this grant, but it was a singular fact, and one which was deserving the attention of the Committee, that, while all other portions of land in the metropolitan suburbs were daily improving and being built upon, that neighbourhood had not advanced for the last twenty-five years. From the railway station at Vauxhall Bridge up to Battersea and Chelsea scarcely any improvement had taken place during that period. The hon. Member for Lambeth said 500,000 people in Southwark had no place of recreation, but he (Mr. Brady) would call attention to the fact that they had Clapham Park, and the new park that was being made at Kennington, besides which, by crossing Westminster Bridge, they could go into St. James's and Hyde Parks. He thought it right to call the attention of the Committee to the fact that speculative people in London had wholly neglected this particular neighbourhood, and he was convinced that if it had been a situation likely to be improved, some of the capital spent in different portions of London would have found its way there long since. The fact was, it was a perfect swamp. He thought great caution ought to be observed in advancing the public moneys in such a manner as might improve private property without conferring a corresponding benefit on the public.

Mr. VINCENT SCULLY said, that, while the hon. Member for Lambeth was quite willing to spend the public money on the improvement of the metropolis in his neighbourhood, he was prepared to chide and cut down the sums voted for such improvements in Ireland. If he (Mr. V. Scully) did not oppose the present Vote, he should expect equal generosity for the Irish Votes. He thought there was great inconsistency in metropolitan Members constantly attacking recipients of public money in Ireland in the most opprobrious language, and stigmatising them as a parcel of beggars. There appeared to be so much inclination to centralise Irish establishments in the metropolis that he should not be surprised at a serious proposition to amalgamate and centralise Phoenix Park in Hyde Park.

Vote agreed to.

(6.) 35,000*l.*, Chelsea Embankment and Public Roadway.

Mr. MICHELL said, he considered this a mere job for the benefit of Mr. Cubitt and the Marquess of Westminster, and he should like to know what contribution these personages were going to make towards the expense? He entirely objected to the Vote.

CAPTAIN SCOBELL said, that though it might be expedient to complete these works, as they were begun, yet he hoped the Government would not enter upon any more such undertakings, which might be better left to that private spirit and enterprise which were found quite sufficient for such improvements in other towns.

Mr. HILDYARD said, he hoped the hon. Member for Bodmin (Mr. Michell) would divide the Committee against the Vote. The laxity with which the national money was expended by the Government for metropolitan jobs was monstrous.

SIR WILLIAM MOLESWORTH said, he felt it his duty to vindicate the Vote, the purposes of which had been in the most decided manner, and repeatedly, sanctioned by Parliament, as purposes of public utility. As to Mr. Cubitt, he had made a portion of the embankment at his own expense in the most admirable manner, and the Marquess of Westminster had undertaken to contribute as much towards the expenditure as should be deemed by the Government a fair contribution on his part.

LORD SEYMOUR said, that, when he was in office in 1850, he had been disposed to think that the expenditure upon Battersea Park would be so extravagant that Parliament had better consent to pay the forfeits upon the contracts made and give up the plan; but he had found upon further inquiry, that the Government was so involved in all sorts of engagements, under Acts of Parliament, that it would be cheaper to go on than to stop. Certainly, as the matter now stood, the more economical course would be to complete the park and the works connected with it as soon as possible, so as the earlier to realise the returns to which his right hon. Friend (Sir W. Molesworth) had adverted.

Vote agreed to.

(7.) 3,393*l.*, British Ambassador's House, Paris.

Mr. AYSHFORD WISE said, he had called attention to a similar Vote of last year, amounting to 9,234*l.*, which had led to the very singular Report of Mr. Albano,

the architect of the Public Works Commissioners, a document that contained some astonishing and disgusting details with respect to the state of the house and furniture. It was the duty of the Board of Works to see that the house was in a state of proper repair, as a large sum was annually voted for keeping it up; but Mr. Albano said that the furniture was infested with vermin, the floors tumbling in, and the whole place full of rats. This palace cost 30,000*l.* in 1815, and the nation had since expended 40,000*l.* upon it, and considering that some 700*l.* or 800*l.* were voted every year for repairs, he must say he thought there was great negligence at the office of Works. He (Mr. Wise) wished to know how much of the furniture belonged to the nation, and also what was the object of fitting up the drawing-room as a chapel, at an expense of nearly 400*l.*, and the spending more than 300*l.* in converting the dining-room into a place of worship for the ambassador and the fashionables who frequented Paris. He certainly thought that such expenditure ought to be checked. He wished also to know what had been done with respect to a scheme which had been concocted by a few individuals calling themselves "the English in Paris," but who in reality were three individuals who composed a public meeting, a committee, and a deputation to the Government. A proposal was submitted to build an English church in Paris, founded on the assumption that there was not sufficient accommodation for the English who visited that capital. Now, it was notorious that there were three large churches in Paris for English Episcopalians, which, except for a short season, were never more than half full, and he would ask, therefore, if Her Majesty's Government had given any encouragement to such a scheme? He saw a great increase in the annual Vote for these chapels abroad, and thought these charges worthy the attention of the Committee. Besides 3,000*l.* for a church at Constantinople, he found in other parts of the Estimates a Vote for 7,500*l.* for the support of chapels in foreign countries, and a further sum of 1,300*l.* for chaplains attached to embassies. In 1844 the Vote was 4,000*l.*; in 1849, 5,000*l.*; in 1850, 5,500*l.*; in 1852, 6,000*l.*; and in 1853, 6,500*l.* He thought it his duty to call the attention of the Committee to this gradual increase, and to protest against the system of making Parliament a mere registry court of foregone conclusion, and of voting

*Mr. A. Wise*

money to pay for the past instead of asking money for the future. He saw an item for building a cemetery wall at Madrid of 1,400*l.*; but he happened to know that the work was doing—that Mr. Albano, the architect, was at Madrid superintending the work, and that thus the House was called on to pay for what it had never sanctioned. He must say that he thought it was very inexpedient that the Government should first incur large expenses, make purchases, and direct the expenditure of large sums of money all over the world, and afterwards come to Parliament to sanction the outlay. Such a system of voting away the nation's money was unsatisfactory, and certainly was not agreeable to the notion that hon. Members were the guardians of the public purse.

SIR WILLIAM MOLESWORTH said, an estimate had been submitted to the House last Session for repairing and furnishing the Ambassador's house at Paris, which amounted to 9,213*l.* and which had been prepared by direction of the former Government. Of this sum 5,820*l.* was voted in 1853, and a balance of 3,393*l.* remained to be voted this year. Every ten years or so it was necessary to do up a building, but he hoped the house would not again fall into that bad state in which it certainly was last year.

MR. J. WILSON, in answer to the inquiry made by the hon. Gentleman (Mr. A. Wise) about the building of a chapel in Paris, said, that a proposal to this effect had been made to the Government; the answer given was, that if the residents in Paris were prepared to raise among themselves—according to the usual practice in the case of such grants—half the amount asked for, the Government would take into consideration the propriety of making an advance. The Government, however, were told that was not likely to be the case, and there the matter dropped, no sum of money being granted.

Vote agreed to, as were the following—

(8.) 10,900*l.*, Lighthouses Abroad.

(9.) 2,500*l.*, Royal Dublin Society Building.

Motion made, and Question proposed,

(10.) "That a sum not exceeding 27,500*l.*, be granted to Her Majesty, for the year ending the 31st day of March 1855, towards the purchase by the Commissioners for the Exhibition of 1851, of certain additional Lands at Kensington Gore, necessary for the purpose of the New National Gallery and other Institutions connected with Science and the Arts."

COLONEL DUNNE said, he wished to

know whether a National Gallery was to be erected in this place.

MR. W. WILLIAMS said, it was absolutely necessary that the Committee should know something about what the ultimate expense would be. Unless they had some distinct and clear statement as to the object for which this money was wanted, the Committee ought to make a stand against this Vote.

MR. SPOONER said, that 150,000*l.* had already been voted on account of this land at Kensington, and as far as he could ascertain, they had no statement of what was the quantity of land for which they were paying this large amount, or even of its exact locality. He considered Kensington a very inconvenient place for an institution of art, both as regarded the public and the artists who wished to avail themselves of the institution for the purposes of study.

MR. CARDWELL said, that in 1852 the Government obtained a Vote of 150,000*l.*, which together with another 150,000*l.*, the surplus funds from the Great Exhibition, were applied to the purchase of a magnificent and very eligible plot of land, about ninety acres in extent, at Kensington Gore. The bargain was an exceedingly profitable one, and many private individuals would like to take it off their hands at the terms they gave for it. But there was a small wedge-shaped piece of ground running from the Hammersmith Road to the centre of the property, and upon which a very bad description of tenements were situated, which greatly diminished the value of the whole of the land. An Act had therefore been obtained by the Commissioners to buy this small piece of land, and these miserable tenements, and appropriate a sum as compensation to the owners. A Committee of that House last year decided that the National Gallery should be removed to this spot, and he hoped that decision would be inflexibly adhered to; but, at all events, it was manifest that this small additional outlay of 27,500*l.* would be more than counterbalanced by the enhanced value it would give to the whole of the rest of the property.

MR. DANBY SEYMOUR said, he hoped the Committee would require from Government a statement of its intentions before they voted this money, and also whether Government intended to carry out the recommendations in the Report of the Royal Commissioners of 1851. With re-

gard to the block of land which was originally to serve for the erection of a building for scientific societies, that project was opposed by the societies themselves, who said the site was inconvenient, and if their societies were removed there it would prove their destruction. He believed the plan was then entertained of erecting a new National Gallery on the land, but he thought the distance was so great, persons would not go so far to see the pictures. He would only say that he hoped Government would not attempt the expensive and impracticable plan of fostering scientific objects by large grants of public money. With regard to the Committee relative to the new National Gallery, he must say he thought the appointment of the members was conducted on an unfair principle. He thought on a subject of such magnitude, there ought to be a special Committee appointed to take the whole question into consideration. He also objected to the employment of police in the interior of public institutions. If the police were so numerous as to require to be employed in such labours, he thought they ought to be reduced forthwith. He had asked Government to lay on the table the plan of Sir Charles Barry, as that plan did not propose to remove all the societies to Kensington Gore, but only to have some of them in that locality, and to concentrate the scientific departments at the British Museum. All he wanted was, that Government would give an assurance that they would enter upon no career of change and expenditure, without due deliberation and the consent of Parliament. He thought that such an institution as that contemplated at Kensington Gore would injure and interfere with the interests of the Crystal Palace at Sydenham. If no one else made the Motion, he should move that the Vote be rejected.

LORD JOHN RUSSELL said, the Motion of the hon. Gentleman was not at all consistent with his argument. The hon. Member said, he had no objection to complete the purchase, and what he did object to was, that the Committee should be pledged to apply this ground to the erection of a National Gallery; but the Committee would not be at all pledged by this Vote to do any such thing. According to the views of the Government the ground should be bought and the National Gallery should be erected on the ground; but all the Government now asked was, that the purchase made by the late Government

should be improved, by the additional purchase of a piece of land which would make what had been already bought far more valuable. By next year the Government would consider the subject very maturely, and if they should continue of the opinion that the National Gallery should be built on the ground, the matter would be submitted to the House. But the Government certainly agreed with the Commission appointed three years ago, and with the Committee that sat last year, that there are reasons against maintaining the National Gallery in its present position. In the first place, it was very difficult to obtain space for additional pictures that might be expected to arrive from time to time; and in the next place, the pictures were exposed there to great injury; but if they were removed to Kensington Gore, and to a more spacious building erected there, they would not be thus liable to injury. The hon. Gentleman also said it would be impossible to expect people to go so far as Kensington Gore to see the pictures, but it was well known that persons went a great deal further than that for a similar object. As many as 11,000 persons attended on one day at Sydenham, which was a greater distance from London than Kensington Gore. There were other proposals made by the Royal Commissioners with respect to the disposal of this ground, one for the benefit of learned societies who might or might not be inclined to adopt any proposal of the kind, and another for education and arts connected with manufactures, which he thought would be of very essential use to this country. There was also at present a large collection at Marlborough House, and that was another reason why the ground should be devoted to the purpose proposed. At all events, the purchase was not an unwise purchase, for the ground in itself was very valuable, and provided the House of Commons was of opinion that the land was unfit for any of the purposes to which the Government proposed to devote it, the ground might be sold at probably a much advanced price. They could then repay the 150,000*l.* contributed by the Royal Commissioners, and they would be able to apply that 150,000*l.* to any other purpose they might think conducive to the ends of the Exhibition of 1851. The hon. Gentleman would see that by refusing this grant he would not at all attain his object. All he would attain was, that the inconvenient piece of ground

*Lord J. Russell*

running into the land already purchased would be kept out of the purchase, and that thereby the land that was bought would be made less valuable than otherwise it would be. Whatever might be the ultimate decision, it was desirable to make the purchase of this ground; and he begged to state at the same time that it was the opinion of the Government that a plan should be proposed to the House for the erection of a National Gallery on that site. But no plan was yet settled, the House of Commons was not called upon to vote a single shilling for it, and the wish of the hon. Gentleman, that that question should be deferred to next year, was therefore completely fulfilled.

MR. HEYWOOD said, he must complain that they were asked to vote a sum of money for a purpose that could not be realised, the societies connected with science having unanimously declared that they would not go to Kensington Gore.

MR. CROSSLEY said, that if the public, as stated by the noble Lord, went to a greater distance than Kensington Gore, they went for a very different purpose besides that of seeing pictures; and the present site of the National Gallery, he considered, was more convenient. Manufacturers were better able to get artists than Government were able to get them for them; and if they were to take Marlborough House as an example, he might remark that though a pattern had been declared there to be an incorrect specimen of art, there had been sold of that very pattern 40,000*l.* to 50,000*l.* worth. He did not believe, therefore, that the gentlemen sitting in judgment upon those things were such very good judges of what the public required.

MR. PETO said, the land which had been purchased by Government, if it were sold to-morrow, would bring a profit of at least 100,000*l.* He hoped the Vote would be agreed to, as the bargain was a good speculation.

MR. SPOONER said, though we were not bound by the preamble of the Vote, yet when the question of the new National Gallery came before the House they would be told, "How can you object to a Vote for the new gallery, when you have agreed to this Vote?" If the hon. Member (Mr. D. Seymour) persevered in his Amendment, he should support it. He thought that there must be some peculiar pressure outside the House to induce the Government, at a time like the present, to carry

out a plan which, in a time of affluence and with a prospect of peace, they would not be justified in doing. It was the duty of that House to stand between the Minister and that pressure. He believed if they had been independent of that pressure that they would not have proposed this Vote.

MR. DISRAELI said, he quite agreed with his hon. Friend (Mr. Spooner) that there was some pressure out of doors that did not act upon the Government, and he hoped they would be bound by that action, and that was—the generally diffused idea that they should elevate the taste of the people of this country; and this was one of the first steps to attain that important object. This was really an addition to the Vote which he had the honour to recommend to the House when the sum of 150,000*l.*, contributed by the shillings of the people of the country, was proposed by the Royal Commissioners to be devoted to the advancement of the arts and sciences; they having applied at the same time to the Government to know whether they would recommend to Parliament to contribute an equal sum in order to accomplish that object. It was generally believed that that object would be best accomplished by buying a considerable piece of ground, which would be the future theatre of their operations; and when he had the honour of proposing that the House should vote an equal sum to that which was contributed by the Royal Commissioners as the residue of the accumulation of the receipts received from the Exhibition of 1851, it was at that time well known, both to himself and to all those acquainted with the circumstances, that there would be a future necessity for asking for a Supplementary Vote of this description. It was not concealed; and if they did not dwell upon it, it was only because they were of opinion that if it was stated that there was this small segment of land which they were desirous of obtaining, those in possession would be ready to take advantage of their anxiety to get it. If they dwelt upon the necessity of obtaining that small segment or wedge of land, of course the price would be increased, and that was the only reason why they had not placed the point ostentatiously before the public. He begged to call the attention of the Committee to the evidence of the secretary of the Royal Commission, Mr. Edgar Bowering, who was examined on the subject, and who stated that it was scarcely advisable to enter into particulars with reference to this piece of

ground. If they had entered into great detail as to the extreme necessity and advantage of obtaining this wedge of ground, or entered into any narrative of that kind, there was no doubt if it could be obtained at all, it would be only obtained at a greater cost, and that was the only reason why the Supplementary Vote had been postponed. The Government were asking the Committee to sanction an arrangement to which a year and a half ago they had given their assent without a division, and so far as this Vote was concerned the Committee should feel they were acting on a pledge previously made, and in a prudent manner by giving their assent to it. By doing so they would not pledge themselves to erect the National Gallery at Kensington Gore. The plan for doing so must be offered in detail to the House of Commons, and the House would have an opportunity of discussing the propriety of the proposition when brought forward for their consideration. They might have great difficulties to encounter before all the objects which they contemplated were achieved, but he should be quite satisfied if the Committee would then agree to a Vote to which they must see there was no fair objection.

MR. DANBY SEYMOUR said, he had been of opinion that they could not agree to the Vote without pledging themselves to the erection of the National Gallery at Kensington Gore, but from what had been said by the noble Lord he did not then think that question would be decided by their voting that 27,000*l.*

MR. SPOONER said, he did not know whether the hon. Gentleman intended to withdraw his Amendment, but if so, he (Mr. Spooner) would not consent to its withdrawal, because he was resolved to have his vote recorded against the commencement of a plan that would involve the country in a most expensive undertaking.

MR. LOCKE said, he thought, after the experience they had of the building of the Houses of Parliament, they should not heedlessly embark in another great work, because they might have to regret that they had ever entered into it. He felt quite sure that the institution for whose benefit they were about to erect this great building would not take advantage of it when it was erected. The House of Commons should insist that a specific plan, with the expense, should be laid before them before they embarked in a project of which

they could neither know the expense nor limit. By that Vote to-night they would be laying the foundation of other Votes, which would lead to the same result as had been experienced with respect to the building of the Houses of Parliament, and he would, therefore, most willingly vote for the rejection of the Vote, unless they received an explanation with respect to the ultimate object and expense of this undertaking.

LORD JOHN RUSSELL said, if the Vote were carried, the course the Government would adopt would be to consider the different plans which might be offered for the erection of the proposed building, and to choose that which seemed best adapted for the objects in view. The Estimates for the purpose would then be proposed next year, and at that time all explanations required would be given. With regard to what had fallen from the hon. Gentleman who had last spoken, he must remind him that before the Houses of Parliament were commenced estimates and plans were made, and that it was not so much the doing of the Government of the day that Sir Charles Barry's plans were adopted as of the Members of the two Houses generally. For his own part, he should have been better satisfied with a plainer and cheaper building, but noble Lords and hon. Members would not have it so.

MR. VINCENT SCULLY said, that it was stated in the Vote that it was necessary for the purpose of the National Gallery, but it was now universally admitted that it was not necessary for that purpose; and he suggested, therefore, that those words should be omitted, or that the Vote should be withdrawn for the present, and again proposed in an unobjectionable form.

MR. LOCKE said, he wished to know whether, if the Committee assented to this grant, the noble Lord the Lord President would give an assurance that before any further Vote was taken in order to carry out the scheme for the removal of the various institutions, which had been referred to, to Kensington Gore, a Select Committee should be appointed to inquire into the necessity of such removal?

LORD JOHN RUSSELL said, he must decline to give such a pledge.

Question put; the Committee divided:—Ayes 169; Noes 48: Majority 121.

Vote agreed to; as was also the next Vote—

(11.) 5,000*l.*, Australia Expedition.

*Mr. Locke*

(12.) 2,800*l.*, Cholera in Jamaica.

MR. GOULBURN said, he would take that occasion to ask whether Her Majesty's Ministers were aware that cholera had broken out in the island of Jamaica, and whether any steps had been taken to furnish additional medical assistance to the inhabitants of that island?

SIR GEORGE GREY said, he was very sorry to say that the cholera had broken out both at Jamaica and Barbadoes, but the Government had received no information that there was any want of medical assistance in either of these islands. He regretted, however, to have to inform the Committee that the House of Assembly at Jamaica had declined to provide the funds for sending the requisite medical and other assistance.

SIR JOHN PAKINGTON said, he did not consider the answer of the right hon. Gentleman at all satisfactory. This was not solely a West Indian question; but it was one in which our own sailors and soldiers stationed in those islands were concerned. Frightful ravages had been made by this disease in those Colonies; further medical assistance ought to be rendered; and the only reason it was not was, that the Government were afraid to apply to the Committee for a Vote to enable them to take the necessary precautions against visitations of this disease.

SIR GEORGE GREY said, that when the cholera broke out before, three medical inspectors were sent out from this country. One of them died, but another had made a most useful Report with reference to the best course to be taken, either as to precautions against future visitations, or for the actual treatment of the disease. That information had been placed at the disposal of the Colonial Governments. But if the Government were not only to provide a medical staff for the treatment of the disease when it actually existed in the West Indies, but also to take measures in anticipation of its visitations, there was no saying what expense might be thrown upon this country.

MR. MILES said, he must express his deep regret at the statement of the right hon. Gentleman the Secretary of State for the Colonies, and his strong sense of disapprobation of the course which the Government were pursuing.

SIR JOHN PAKINGTON said, the right hon. the Secretary for the Colonies had not correctly stated the purport of his remarks. All that he wished was, that

the Government should again send out medical inspectors, in the same manner as was done by Earl Grey when this epidemic last visited the West Indies.

*Vote agreed to.*

(13.) Register, High Court of Admiralty.

Mr. J. WILSON said, he wished to make a short explanation with respect to the nature of the Vote and the reasons why it had been placed upon the Estimates. The Committee were aware that the High Court of Admiralty was an independent Court, and that its Registrar was, neither with respect to his acts nor the management of his accounts, placed under the control of that House. Now, the late Registrar had, of his own free motion, admitted the existence of a large defalcation in his accounts, that defalcation never having been suspected by either the Judge or any of the other officers of the Court. A Committee had been appointed to inquire into the circumstances of the case, and the fraud having been fully established, it became the duty of the Government to lay hands upon all the property of the Registrar; and the Committee were of opinion that that property would be found sufficient to cover the whole of the amount of the defalcation. Now, it had been found that certain sums of money which were due to the suitors of the Court of Chancery, and which had been placed by order of the Judge in the hands of the late Registrar of the Court of Admiralty, had been included in the defalcation, and upon consultation with the Board of Admiralty Her Majesty's Ministers had deemed it would be unfair—although they possessed no control over the Registrar, yet, as he was a public officer, and the suitors in question laboured under the conviction that their interests would be protected by the general supervision of the Government—to allow those suitors to suffer any pecuniary loss. Under these circumstances it was that the Vote now under their notice had been placed upon the Estimates.

Mr. VERNON SMITH said, the hon. Gentleman was correct in stating that this was an extraordinary case, but he was not so correct in stating that no blame attached to any one. It was quite true that the Registrar was appointed by Act of Parliament, and not by the Government, but it did not follow that the Government should not have exacted from him what was exacted in the case of any other officer, namely, some surety for the money which

passed through his hands. There must have been some negligence on the part of the superintending officers that some security was not taken for the good behaviour of the Registrar, for he found that, by an Act of Parliament passed in 1813, it was expressly enacted that the Registrar of the Court of Admiralty should not have more than 10,000*l.* in hand at any one time, and that the surplus should be paid into the Bank. If that Act had been enforced, how could the Registrar have been a defaulter for 25,000*l.*? In November, 1853, a Treasury Minute appointed three gentlemen to inquire how these defalcations had occurred. Their Report had only been delivered that morning, and until the House had had an opportunity of considering it the Vote ought to be postponed.

Mr. J. WILSON said, by the Act of Parliament in question, there was no Member of the Government, nor any department of the Government that had the slightest control over that Court or any of its officers. As, however, the Report of the Committee was only asked for last night, and was not yet distributed, he was ready to consent to the postponement of the Vote until Members had had an opportunity of perusing it.

Mr. OTWAY asked whether security had been taken from the new Registrar of the Court of Admiralty?

Mr. J. WILSON replied, that security had been taken from the new Registrar, and, moreover, that the office would be brought under the annual control of Parliament by a Vote.

*Vote postponed.*

House resumed.

#### MILITIA (No. 2) BILL.

Order for Second Reading read,

Mr. MILES said, he was willing to admit that this Bill was a great Amendment upon the Bill of last year, but he objected to its being proceeded with at so late an hour (a quarter past twelve o'clock). The Bill of last Session had passed without any discussion upon the immense imposition then placed upon the county rate. In former days the counties had to afford storehouses for the militia arms, but that never used to cost more than 50*l.* for one regiment, or 100*l.* for two. But, by the Bill of last Session, the counties had to find not only storehouses, but what he might call a barrack, which was to contain rooms for the sergeant-major and the permanent staff. Ground, also, had to be

provided to enable the whole militia regiment to be assembled, and to deliver their arms at any time. This was an immense expense to counties. The militia were now a national force, and if storehouses were required, the nation ought to pay for them. Some day ought to be appointed for the discussion of this Bill, when it could be carefully considered.

MR. IRTON said, he also must protest against the Bill. The tendency of the legislation of recent years had been to give the ratepayers some control over the rates; but this measure proceeded in a directly opposite course, for it not only took all power out of the hands of the magistrates, but transferred it to the deputy lieutenants alone. Now that was a principle totally at variance with the principle by which that House professed to be guided, and contrary also to the principle of the measure which the noble Lord (Viscount Palmerston) had promised to introduce with regard to county rates, but which measure, like so many others that were promised, had never yet seen the light.

VISCOUNT PALMERSTON said, he would not press the second reading of the Bill at that late hour of the night, if hon. Gentlemen wished to have the opportunity of expressing their opinions with regard to it. He must be allowed to say, however, after what had passed, that the obligation to find storehouses was not a new obligation on the counties. It was imposed by the old militia laws, especially by the Act 42 Geo. III.; and the objection taken by the hon. Member who last spoke—namely, that it was the deputy lieutenants who had to determine—was not a new enactment. That also was the standing law provided in the same Act of 42 Geo. III. It was quite a misnomer to call these storehouses barracks, because all that was required was lodging for a small portion of the staff, amounting to a very few men; and if, on the one hand, any additional accommodation was required, on the other hand the expense was thrown over a long period of time. Therefore, the real annual charge to the county was much less than it otherwise would have been. It was also said that this was a national force, and that the burden ought to be borne by the country; but let it be recollected if the Government, or the Government of Gentlemen opposite, who had the merit of setting on foot the militia, had had recourse to the provisions of the 42 Geo. III., and enforced the ballot, that

*Mr. Milcs*

would have entailed on counties a great deal more expense, trouble, and inconvenience than had arisen from the system of voluntary enlistment, and the public had taken upon themselves the expense of that voluntary enlistment. If country gentlemen would consider the two sides of the account, they would find that the counties were the gainers by the arrangement which had been adopted. He would not then, however, go further into the subject, but postpone the order until Monday, with the view of taking some early day after that for reading the Bill a second time.

MR. HENLEY said, he must express a hope that the House would be afforded sufficient time for considering the measure; and that the noble Lord (Lord Palmerston) would endeavour to devise some convenient machinery for dividing the burdens between the towns and the counties.

Second Reading deferred till Monday next.

#### METROPOLITAN SEWERS BILL.

VISCOUNT PALMERSTON said, he had intended to bring in a Bill to reorganise the Sewers Commission, but it was suggested to him that as the Corporation Inquiry Commissioners were likely to make some suggestions with regard to the whole metropolis, he had better wait for their Report. It had now been presented, but too late to act on it this Session; he had, therefore, to propose a Bill to continue the existing Commission for twelve months, giving them power to raise money for such works as might be necessary during that period; but none of the great works were to be commenced till the reorganisation of the Commission.

MR. ADDERLEY said, he hoped that in the meantime something would be done to improve the sewerage of the district of Belgravia, which was in a most disgraceful state.

VISCOUNT PALMERSTON said, that the Commission would be able to undertake any work of absolute necessity. He hoped that when it was reorganised it would contain some elective members, the representatives of the boards of guardians and corporation of the metropolis.

SIR WILLIAM CLAY said, he wished to know exactly what amount the present Commission would be authorised to raise.

VISCOUNT PALMERSTON said, that the amount asked for was 300,000*l.*, but he would cause a detailed statement of

the proposed works to be laid before the House.

Leave given.

Bill ordered to be brought in by Viscount Palmerston and Mr. Fitzroy.

Bill read 1<sup>o</sup>.

#### PUBLIC HEALTH AMENDMENT BILL.

VISCOUNT PALMERSTON then moved for leave to introduce a Bill for the continuance of the Board of Health, the object of which was to amend the Public Health Act of 1848. The alteration which he proposed to effect by this Bill was that the Board should be continued for two years; its members would be appointed by, and removal at the pleasure of, the Secretary of State for the Home Department, from whom it should receive orders and directions. It appeared to him that the care of the public health was properly a part of the duties of the Secretary of State for the Home Department; and he hoped, by the power proposed to be vested in the Secretary of State, to remove the evils which had resulted from differences between local communities and the Board of Health. At present that Board was in the anomalous position of being subject to no official control and of not being represented in that House, so that there was really no one who was answerable for anything which might be urged against it. The alterations which he proposed to make by this Bill would place it under the control of an official and responsible department, and would present to Parliament a public officer answerable for any of the proceedings of the Board which might be called in question.

MR. HENLEY said, he should not object to any Bill to deal with the Board of Health, as he thought it impossible that even the ingenuity of the noble Lord could place it in a worse position than it was. At the same time, he did not think that the scheme of the noble Lord was likely to improve matters much.

SIR BENJAMIN HALL said, he hoped that a sufficient time would be allowed to elapse between the first and second reading of the Bill for its provisions to be considered by the country. He did not approve of the scheme proposed, and thought it would be better to constitute this Board like the Poor Law Board.

Leave given.

Bill ordered to be brought in by Viscount Palmerston and Mr. Fitzroy.

Bill read 1<sup>o</sup>.

The House adjourned at Two o'clock till *Monday* next.

#### HOUSE OF LORDS,

*Monday, July 10, 1854.*

MINUTES.] PUBLIC BILLS.—1<sup>o</sup> Towns Improvement (Ireland); Valuation of Lands (Scotland); Sheriff and Sheriff Clerk of Chancery (Scotland); Married Women.

2<sup>o</sup> Bankruptcy; New Forest; Public Revenue and Consolidated Fund Charges.

Reported—Dublin Carriage; Linen, &c., Manufactures (Ireland).

3<sup>o</sup> Court of Chancery, County Palatine of Lancaster.

Royal Assent—Customs Duties (Sugar and Spirits); Excise Duties (Sugar); Railway and Canal Traffic Regulation; Church Building Acts Amendment; Public Statutes; Witnesses; Registration of Bills of Sale; Warwick Assizes; Vice Admiralty Court (Mauritius).

#### THE BISHOP OF NEW ZEALAND— SALARY—QUESTION.

THE BISHOP OF LONDON begged to ask the noble Duke, late the Secretary of State for the Colonies (the Duke of Newcastle), to state the reasons which had induced Her Majesty's Government to refrain from including in the Estimates of this year the annual Vote of 600*l.* for the salary of the Bishop of New Zealand. The right rev. Prelate stated at some length the eminent services of Dr. Selwyn, but was almost inaudible.

THE DUKE OF NEWCASTLE said, there was not one word uttered by the right rev. Prelate in praise of the Bishop of New Zealand in which he did not most heartily concur. The circumstances, however, which led to the withdrawal of the Vote were principally these—and their Lordships would perceive that, though unfortunately the Bishop himself was not apprised of the discontinuance of the Vote until a few days ago, still Her Majesty's Government had not been wanting in that courtesy and respect so eminently his due. For many years the Parliamentary Estimates on account of the Colony were very large, caused in a great measure by the disastrous circumstances accompanying the colonisation of the island of New Zealand. In the year 1852, Sir John Pakington being then Secretary of State for the Colonial Department, an Estimate for 10,000*l.* on account of the island was presented, including a salary of 600*l.* for the Bishop. But to that Estimate was appended a note, founded upon information

contained in despatches forwarded by the Colonial authorities, to the effect that in the next year the Estimates would be reduced to 5,000*l.*; and that in 1854 all demands on the home Government would entirely cease. In accordance, therefore, with that intimation the Vote proposed in the House of Commons last year was but for 5,000*l.*; and in further accomplishment of that pledge no sum whatever had been asked for in the present year. Such were the circumstances under which the Vote on account of the Bishop's salary had disappeared from the Estimates. Now, he was not at all prepared to say that if circumstances had remained in the position in which they stood twelve months ago he would have been disinclined to reconsider the minute of Sir J. Pakington, and to consider whether it would not be right to ask for a continuance of the grant of 600*l.* a year; but under all the circumstances the Government had not thought they should have been justified in adopting that course. If any temporary inconvenience or loss should arise to the Church in New Zealand, the Government would certainly regret it; he did not, however, apprehend that such would be the result, as he believed the Legislature of New Zealand would take upon itself this charge among others; and that if it did not, the necessary funds would be obtained from other sources. However, before sitting down, he felt he should not be doing justice to the right rev. Prelate if he did not mention a circumstance connected with the case which reflected the greatest possible credit upon him. The salary of the Bishop being composed partly of the annual Parliamentary grant of 600*l.* a year and partly of an annual grant of 600*l.* a year from the Church Missionary Society, the right rev. Prelate had voluntarily surrendered the latter 600*l.* a year in order to its being devoted to other missionary purposes. Now, the circumstance to which he wished to direct their Lordships' attention, as redounding so much to the Bishop of New Zealand's credit, was this—that as soon as it was intimated to him from the Colonial Office that the Parliamentary grant was to be discontinued, and he was asked whether he might not deem it advisable to reclaim the Vote of 600*l.* a year from the Church Missionary Society, the Bishop at once replied, that whatever might become of the Parliamentary grant, his wish was still to surrender the other 600*l.* a year for the benefit of the Colonial Church.

*The Duke of Newcastle*

#### SCREW PROPELLERS IN THE ROYAL NAVY.

LORD LYNTHURST, having *presented* a petition from Edward John Carpenter, Esq., a Captain in the Royal Navy, complaining of the misapplication of the public money voted by Parliament for the Patentee of the Screw Propeller used in the Royal Navy, and praying for inquiry and relief, proceeded to move—

“That there be laid before this House a Copy of the Agreement entered into by the Lords of the Admiralty, or on their behalf, in respect of which a sum of 20,000*l.* has been paid on account of patent rights for the propellers used in Her Majesty's Navy.”

The noble and learned Lord said he requested the particular attention of their Lordships to this case, which involved the application of a large sum of money, or rather the misapplication of that sum, and he was quite sure that his noble Friend at the head of the Treasury, as the guardian of the public purse, would attend to the question with much interest. He would endeavour to state the facts as shortly and with as much precision as possible, and he was sure, when they were rightly understood, they would make a strong impression not only on their Lordships, but on his noble Friend. Those of their Lordships who were acquainted with the subject must be aware that the original plan of screw propulsion was the operation of a screw of considerable length. As it turned out, the application of that principle did not succeed to any considerable extent; there was not a facility given for the escape of the water, and the water, acting upon the machinery, retarded the progress of the vessel. The next step was to cut down the screw. That had the effect of diminishing the evil, though it did not remove it. There was then a third project, and that was to divide the screw into two convolutions. That plan, however, was liable to the same objections. At last it was considered proper to take only part of the screw. A difficulty then arose, which Captain Carpenter set himself about to remove, with a view to the service of the Royal Navy. After he had devoted several months to the subject, he attained the end which he so much desired, in the production of a most perfect screw propeller, and in 1841 he obtained a patent for his invention. He then applied his machinery to a vessel of considerable size—a vessel of seventy feet in length—upon the Thames. It was exhibited in the presence of a great number

of scientific persons, amongst whom was Sir Edward Parry, the comptroller of the steam department of the Admiralty. The report made by those gentlemen on the occasion was decidedly in favour of Captain Carpenter. Having conducted those experiments to the public service, Captain Carpenter wrote to Lord Minto upon the subject. Lord Minto, in reply, thanked him for his most valuable invention. Lord Minto, however, left office in August, 1841. Shortly afterwards Captain Carpenter was appointed to the command of a vessel called the *Phyllis*, which was a vessel of war; the vessel, however, was not worked by a screw, though she was a steam propeller. After he had been so appointed, Captain Carpenter was directed to apply the machinery which he had invented to that vessel. He did so, and a considerable portion of that machinery was applied at his own expense. When the vessel was completed it was visited by the Lords of the Admiralty and several other persons, who were capable of forming an opinion upon the merits of his invention; amongst others, by the engineer to the Board of Admiralty, and by Sir E. Parry. The result was a report highly favourable to Captain Carpenter. The Board of Admiralty then resolved to send him out to the Mediterranean, where he was directed to put himself under the command of Commodore Owen, in order to have his experiments still further tested. Commodore Owen was a man of great scientific skill. Accordingly Captain Carpenter proceeded with his vessel to the Mediterranean, where his machinery was fully tried. The result was, that Commodore Owen reported favourably to the Board of Admiralty upon his invention. Captain Carpenter remained absent from this country about two and a half years. During his absence the Board of Admiralty, being desirous of making further trials of his machinery, fitted up a vessel of war called the *Rocket*, upon which they tried successive experiments with this screw. From that time to this Captain Carpenter's screw was the only one used in the service—there was no other patent of any kind used in any of Her Majesty's ships or vessels. Some time ago, under the authority of the House of Commons, a sum of 20,000*l.* was appropriated by the Admiralty "on account of the patent rights for the propellers used in Her Majesty's ships and vessels." These were the words contained in the Navy Estimates laid upon the table of the House of Com-

mons. Their Lordships might not be aware of the great number of patents which had been granted for different parts of the screw propeller. At the time to which he was adverting a company had been formed, called the Amalgamated Screw Propeller Company, which consisted of five or six members, and of which Mr. Currie, a partner in a banking firm in the City of London, was at the head. This gentleman applied on the part of the company—he being the head of the company, and interested in its success—he applied to the Board of the Admiralty for the payment of the sum of 20,000*l.* The Board of Admiralty did not take the trouble of investigating the claims which were made to a participation in the Parliamentary grant, but they adopted what he thought, and what he believed his noble Friend opposite would also think, a most extraordinary and unwarrantable course. They agreed to pay the money over to Mr. Currie on his giving them a guarantee that the money should be applied as it ought to be applied. He was not aware of the precise wording of the guarantee, but it was an indemnity to the Admiralty, with respect to the application of this sum of 20,000*l.* Their Lordships would not be surprised that, under such circumstances, Mr. Currie, being at the head of a company of patentees for rights of this description, had divided the money among his own friends, the members of that company. Captain Carpenter having discovered that this money had been so applied, or at least part of it—for, in the first instance, a sum of 10,000*l.* out of the 20,000*l.* was paid over—immediately went to the Admiralty and had an interview with the Duke of Northumberland, who was then at the head of the Board. The Duke of Northumberland was very much surprised at the statement which Captain Carpenter had made, and gave that gentleman to understand that the order for the second sum of 10,000*l.* had been sent to him for signature, but that after what he had heard he should make further inquiry into the facts before he signed it. Captain Carpenter thought that he had obtained a hearing; but it afterwards transpired that the whole of the 20,000*l.* had been paid over to Mr. Currie, on his guarantee, and that the reason of its having been paid over was this, that the Admiralty having entered into an agreement, and, by virtue of that agreement, having paid a sum of 10,000*l.*, considered them-

selves bound to pay the remaining 10,000*l.* also. Could anything be more extraordinary than the course pursued? Here was a sum of money in the hands of the Admiralty to be applied in a particular manner, to be divided among certain individuals, possessing certain merits; and the Admiralty, instead of inquiring into those merits, and ascertaining for themselves who were entitled to the money, and in what proportion it ought to be divided, had handed it over to a stranger to be applied according to his discretion, taking merely his guarantee that he would apply it properly. He thought that that was as gross a dereliction of public duty as it was well possible for any body of men in a public station to commit. Well, what was the next step? One of the persons who had received this money, or a large portion of it, was a person of the name of Low, who had applied to the Judicial Committee of the Privy Council for the extension of his patent. His noble and learned Friend (Lord Brougham), who presided on the occasion, was assisted by the two Lords Justices, by Sir Edward Ryan, by the Judge of the Admiralty Court, and by another person, whose name he had forgotten. The matter was investigated with great minuteness, and the result was that a judgment was pronounced by his noble and learned Friend, stating in substance that the Committee did not consider that Mr. Low had any merits, that he had made any discovery, or that he had done anything useful to the public. Under these circumstances, there being no evidence to show that he had made any experiments, or taken any trouble in the matter, the extension of time which he applied for was unanimously refused. Yet this was the person who had received, by the favour of Mr. Currie, a very large proportion of this sum. This, however, was only a step in the case. Captain Carpenter had applied to the same tribunal for an extension of his patent also. Upon that occasion his noble and learned Friend did not preside, but another very learned person (Sir John Patteson) was substituted. The other members of the Committee were the same as in the other case. The Attorney General attended on the part of the Board of Admiralty, and the claim of Captain Carpenter was investigated with very great minuteness. Many witnesses were called—among whom were the manufacturers of screw propellers, the inspectors appointed by the Board of Trade to ex-

*Lord Lyndhurst*

mine the steam-vessels in the Thames, and other persons of experience in such matters—and were examined at great length; and the result was, that the Court came to a unanimous conclusion in favour of Captain Carpenter's claim. The fact that the Board of Admiralty, having had notice of the application, and having appeared by the Attorney General, was referred to in the judgment as a proof that they did not contest the validity of the patent, or the utility and value of the invention, and it was also noticed, as a fact which had been proved, that the invention had for some time been in use, and still continued to be used, in the Royal Navy. So that this patent was extended in consequence of its utility, in consequence of its having been in use some time in the Royal Navy, and in consequence of its validity not having been contested on the part of the Government on that occasion; yet this gentleman had been excluded from all participation, from all share in the money. A more unjust proceeding, he conceived, could scarcely be. The Attorney General, he should remark, had proposed to consent to the extension—or, at all events, not to contest it—provided Captain Carpenter would consent to allow the Board of Admiralty the gratuitous use of his patent. Captain Carpenter thought this a most unjust condition, and refused to accept it; and the Committee granted an unconditional extension for six years, as one which, in their judgment, would meet the justice of the case. The Attorney General attempted to engraft upon the judgment a condition which the Court thought unjust, and the extension was granted for six years, without any condition whatever. That the patent corresponded precisely with the instrument at present in use, and which had for ten or twelve years been in use in the Royal Navy, was proved by the manufacturers, the superintendents of steam navigation, and the other witnesses to whom he had referred. After this judgment Captain Carpenter again applied to the Board of Admiralty on the subject, stating his case fully, and referring to the decision which the Judicial Committee had given in his favour. The Board of Admiralty told him that they had given the money to Mr. Currie to distribute it properly among the persons who might be entitled to it, and that to Mr. Currie he must apply. To Mr. Currie accordingly he went, and told him that the Admiralty had sent him; but Mr. Currie declared that he had

no connection with him, and that he declined to have anything to do with him, and referred him to his solicitor. The solicitor, however, would give him no information; and Mr. Rolt, the eminent counsel, whom he next consulted, advised him that he could maintain no claim against Mr. Currie, either in law or in equity, because Mr. Currie had received the money from the Admiralty under an indemnity, and was responsible to the Admiralty alone. Under these circumstances he went back to the Admiralty again, and the Admiralty took what he believed was a very usual official course, by referring him to their former answer. Now, here was a sum of 20,000*l.* voted by Parliament for a public object, and to be applied to that object by the Board of Admiralty, in which the Board of Admiralty, instead of applying it themselves, had handed it over to somebody else, who had applied it in a manner inconsistent with the object for which it had been given, and who, being himself an individual interested, had distributed this money among his own friends—persons whose patents had never been used in the Royal Navy. Captain Carpenter was the only person whose patent had been used in the Navy, and the answer which he had received to his application for a share of the grant was, that his right to it was a question of law, and must be settled by some legal tribunal. But by what legal tribunal was it to be settled? He had been advised by Mr. Rolt that he could not proceed against Mr. Currie with any hope of a successful issue. He was willing to proceed against the Admiralty, but he was met by this difficulty, that he could not proceed against the Admiralty for using a patent for the service of Her Majesty. That would be a bar to the action. Then he put the case in this way:—The validity of the patent having been declared after full and mature investigation, it was very hard upon this gentleman, who had already spent so much of his time and 3,000*l.* of his money in effecting these improvements, that he should be put to an enormous expense in taking legal proceedings to establish it; but if the Admiralty would waive the objections in point of law, so as to enable him to try the question against them, he was content to do it. He (Lord Lyndhurst) put the matter upon that issue, if his noble Friend opposite, on the part of the Admiralty, would consent to have it so decided. Captain Carpenter was an officer of Her Majesty's service; he had

devoted his time and his money to perfecting a most valuable improvement, which was in use at this time in every screw steam-vessel in Her Majesty's Navy; was it right that the Government should avail itself, without any compensation, of the results of these long labours and of all this large expenditure? Was it right that he should have no recompense for so valuable a service? They all knew how difficult it was for a private individual to fight against a Board. He had every respect for his noble Friend, but he was not the same man in two different localities. If he called on him at Argyll House, he was all benevolence, and his justice was tempered with mercy; but if he called upon him in Downing Street, he was a rook. However, the case which he submitted to the House was this. Here was a large sum of money belonging to the public which had been grossly misapplied. Captain Carpenter asked for explanation and investigation. Whatever mode of investigation his noble Friend chose to point out, Captain Carpenter was willing to accept; and he (Lord Lyndhurst), on the part of the public, asked for examination also. He would subscribe to any mode of investigation which his noble Friend might be willing to agree to; but investigation there must be, or a gross injustice would be done to Captain Carpenter, as well as to the public.

THE EARL OF ABERDEEN: I have no objection to offer to the Motion which my noble and learned Friend has made. Your Lordships must admit that Captain Carpenter has at least had most able and efficient advocates in bringing forward his case; and I can only say there is no desire whatever on the part of the Government to do any injustice to Captain Carpenter, or not to admit his claim, whatever that may fairly be. But the question with which I have to do is not the relative merits of the patentees of the screw propeller—for I profess to have no knowledge or means of judging of the merits of Captain Carpenter's patent as compared with those of the other gentlemen who are in question, and who have received the money voted by Parliament for compensation for the use of the screw propeller in the Navy. My noble and learned Friend has stigmatised, in very strong terms, the conduct of the Board of Admiralty in entering into the agreement which they made upon this subject; but I must beg to observe to my noble and learned Friend, that the Admi-

upon those who proposed this measure. Parliament had legislated upon the general subject of cruelty to animals, and upon the particular subject of the use of dogs for purposes of draught; and he contended the *onus probandi* lay upon the objectors to this Bill to show that what was considered injurious to the public and a nuisance within fifteen miles of London was perfectly harmless in other parts of the country. As to the argument about birds flying out of hedges and wheelbarrows being dangerous, and the impossibility at all events of legislating against the birds, this remark applied—that whilst there were many petitions to get rid of the particular nuisance of these dog-carts, there were no petitions to get rid of wheelbarrows. But it was not merely because these dog-carts frightened horses that they were objectionable, but because the use of dogs as animals of draught was an abuse, and involved great cruelty. When he heard the arguments the other day against extending the law to other places, he thought they might be the same, and he looked back and found they were precisely the same arguments which were used against the clause in the Metropolitan Police Act, that it would interfere with many persons obtaining their livelihood. He admitted that was a reason for not legislating hastily, but it was not considered a conclusive reason against the prohibition of dog-carts in and about London. The prohibition, too, was not confined to the crowded streets of London, but extended a considerable distance round the metropolis. In the evidence taken before the Committee of their Lordships' House in 1838, he found another reason, in the greater frequency of hydrophobia, which two veterinary surgeons attributed to the increased use of dogs in carts. In Scotland the habitual use of dogs as animals of draught was unknown. He did not insist that in no countries were they so used, but where they were used the condition of things was wholly different, as in the Arctic Regions, where they passed only over frozen ground. From the circumstance of dogs having soft feet and being unable to be shod, it was impossible that they could travel great distances over hard roads without being exposed to great torture and great suffering. He had asked the greatest physiologist of the day whether he thought, under the existing conditions under which dogs were used in England, they were fit animals for draught, and this was the reply of Pro-

*The Duke of Argyll*

fessor Owen:—He points out the distinction between the abstract question of muscular power and fitness as an animal of draught, and he says:—

“It is notorious that dogs are used as animals of draught in Newfoundland and other countries, but the conditions are wholly different. The physical unfitness of dogs for use as draught animals is manifest by the absence of any visible defence of the foot, and their being supplied only with soft elastic pads. The analogy of the use of the Esquimaux dogs for traction along snow-clad surfaces does not apply to the drawing burdens over hard and hot roads in this country. It only illustrates the beautiful provision of nature, by which a carnivorous animal serves man where an herbivorous animal cannot exist.”

Professor Owen did not support the abstract proposition that dogs were unfit animals for draught, but he said that, owing to their structure and the peculiar condition of the roads in this country, their use must necessarily induce very great suffering. It had been said that proprietors of dog-carts were a very immoral part of the community. Of course there were many exceptions to that rule; but an employment which necessarily led to cruelty on the part of the drivers of these carts must react on the character of the men, and he should not be surprised if it did so react and produce a lower and more brutalised turn of mind. Upon a recent visit to Mr. Nash's reformatory establishment, not far from where their Lordships were sitting, he observed a number of tame animals, and he asked how they came there? Mr. Nash said, he had them on purpose to test the disposition of the inmates, for he always found there was no hope of amendment in a man who was cruel to animals. He supported the clause from the thorough conviction that the use of dogs as animals of draught in this country was necessarily attended with cruelty, as well as being a nuisance to the public.

LORD BROUGHAM considered interference necessary because of the great prevalence of the practice of employing dogs for drawing, and would advocate the same measure with regard to goats if their use was as frequent and attended with as much cruelty. It appeared to him that his noble and learned Friend (Lord Lyndhurst) did not object to the public benefiting by the destruction of 3,000 or 4,000 dogs, ten or twelve years ago, when their use was prohibited within fifteen miles of the metropolis, but did object to the public benefit-

ing now by the destruction of a larger number. He (Lord Brougham) supported the clause, both on the ground of humanity and the ground of policy, that no distinction should be made between the metropolis and other places.

EARL GRANVILLE said, he was obliged, even at the risk of encouraging the notion of dissension in the Government, to express his dissent from the views of his noble Colleague. He had been so pointedly appealed to by the noble Duke (the Duke of Argyll), that he must be allowed to say a few words. He had no intention of treating the question with anything like levity, but if some little ridicule attached to it, that only proved it was not a very fit question for their Lordships' House. His noble Friend (the Duke of Argyll) had acted in strict conformity with the opinion he had expressed, that the *onus probandi* rested with those who proposed the clause, and to a certain degree acted on that assumption, because he left the only reasonable ground—the danger to the public—entirely unacknowledged, and directed his observations to the cruelty to the animal, and read a letter from the very highest authority possible, from which it seemed that Professor Owen was of opinion the dog was adapted for draught, except that the construction of the foot rendered the animal unfit to move on hard and macadamised roads. Like his noble Friend, he also had consulted a scientific friend, the Professor of Comparative Anatomy at St. Thomas's Hospital, who, after expressing an opinion corresponding with Professor Owen's, of the foot being naturally formed of a very delicate and very susceptible surface, went on to remark that it was one of the most beautiful provisions of nature which enabled the different portions of the body to adapt themselves to outward circumstances, and instanced the foot of a pointer, which he found as tough and as hard as anything well could be. Not one horse in fifty, standing at that moment at the numerous cab-stands of the metropolis, but was suffering from disease of the foot or hock, and he presumed there was no intention of legislating for their benefit. The great majority of those animals, long before they reached maturity, were diseased by being used on the hard pavements and macadamised roads. The question of hydrophobia had been introduced, but it led to nothing more than that one veterinary surgeon observed a great deal of hydrophobia

in his neighbourhood, and he really thought it must be owing to the dog-carts. It was somewhat singular that with the great increase of dog-carts they did not hear of a great increase of hydrophobia. The noble Duke, because dogs were not used in Scotland, naturally took that as conclusive. But dogs were not only used in Newfoundland, but most extensively in Franco, in Holland, and in Kamschatka; and when it was said they only went over snow, he hoped their Lordships would not fancy it was the nice soft substance which a few days in the year they saw lying on the lawns round their houses. With regard to the demoralisation, if they took away the dog from the man, he must either buy a very cheap horse, more fit for the knacker's yard than for any work, or buy a donkey. And with a donkey, he might torture it with whip, goad, or spur, and not the slightest compassion would be felt for that animal even among the higher classes. A donkey was utterly unable to show the pain it was feeling, or its inability to draw a heavy load. But if a man ill-used his dog he defeated his own purpose of getting on. The dog could lie down and use the most expressive pantomime; and he doubted very much if, among the most degraded, the pressure of public opinion would not be elicited in the poor animal's favour. He was very fond of dogs, and so were most people, and he had no doubt the idea of using some dogs for any useful purpose would excite the horror and indignation of all their female relations. But they ought not to yield to these feelings. They ought to consider the abstract justice of the case—whether they would deprive poor men of an honest means of earning a livelihood, and whether they would enact a sumptuary law, not against the rich, but against the poor.

THE BISHOP OF OXFORD said, there was one fact which he wished their Lordships to note before proceeding to a division. In the course of the debate frequent reference had been made to the circumstance that they had already interfered with the system of dog-carts within fifteen miles of the metropolis, and allusion had also been made to the fact that the system chiefly existed in Hampshire and Sussex. Now it was remarkable that in those parts of the country where the people had been brought into daily contact with the system, there was a very general—he might say a universal—desire that the law which had been passed with respect to the neighbour-

hood of the metropolis should be extended to those districts where dog-carts still existed. The town-councils of Portsmouth, Southampton, Winchester, Newport in the Isle of Wight, and Salisbury, had made by-laws prohibiting the use of dog-carts in their respective boundaries; and when he stated that they could not have done so without the assent of two-thirds of their numbers, in addition to that of the Secretary of State for the time being, their Lordships would perceive that those by-laws could not have been passed by any temporary ebullition of humanity, but by a firm and deep-rooted conviction of the cruelty and danger of the system. There was one simple reason why a man might be more cruel to a dog than to a pony. The price of a dog was very low as compared with that of a pony, and with men of hardened feeling that would be a sufficient motive to induce them to ill-treat a dog, when they would not act in the same way towards a pony, which could neither be replaced so easily nor maintained so cheaply. It was thus in the slave trade. When poor negroes could be bought for a small sum, they were harshly and brutally used; but when they became valuable, they were treated well even by those who had not humanity enough to do so of their own accord. He had been informed that in those parts of the country where dog-carts prevailed the poor animals had been traced in some instances for a distance of twenty miles by marks of blood upon the road, and that it was no unusual thing for a dog to be driven forty or fifty miles upon a hard road until it was able to go no further, to be then destroyed, and to have its place taken by a new dog. He would give his cordial support to the clause.

THE EARL OF MALMESBURY begged their Lordships to remember that in the two counties of Sussex and Hampshire alone there were at least 1,500 poor families supported by dog-carts conveying fuel, market produce, and other articles. He thought the argument of cruelty had entirely failed, and he objected to the clause because the law was sufficiently stringent already to punish offences of cruelty to animals. But dog-carts had been called a nuisance, and he knew that was at the bottom of the whole complaint. He did not deny that dog-carts were a nuisance to persons riding, but that was no reason why they should be suppressed. He entreated their Lordships to consider what

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would be the effect produced upon the public mind if it went forth that they were willing to sacrifice the interests of many thousands of poor persons because they came "between the wind and their nobility."

LORD FEVERSHAM contended that the argument of cruelty had been fully made out. He was able to state that there were at the present moment some forty or fifty dog-carts in Gosport and its neighbourhood, and that the inhabitants generally were decidedly opposed to them. The magistrates of Portsmouth had prohibited the system at the other side of the harbour, and that prohibition had given great satisfaction throughout the town. He was convinced that the present Bill, if passed into a law, would confer an essential and important benefit upon the community at large.

THE EARL OF AIRLIE thought the clause was arbitrary, unjust, and oppressive; and he objected to it not only upon those grounds, but because it was opposed to the general tenor of English legislation.

On Question, That the Clause stand part of the Bill, their Lordships *divided*:—Content 43; Not Content 23: Majority 20.

Clause *agreed to*.

Remaining Clauses *agreed to*.

#### DIVORCE AND MATRIMONIAL CAUSES BILL.

Order of the Day for receiving the Report of the Amendments read.

THE LORD CHANCELLOR rose to state the course which he intended to pursue with respect to this Bill. In consequence of the determination of the Government not to proceed with the Testamentary Jurisdiction Bill in the present Session, he would not ask their Lordships to assent to those clauses of the present Bill which transferred the matrimonial jurisdiction of the Ecclesiastical Courts to the Court of Chancery. There was considerable force in the objection that although it would be difficult, and perhaps inconvenient, to transfer all the business of the Ecclesiastical Courts at once to the Court of Chancery, yet it was desirable that the whole subject should be dealt with in one large measure; and therefore it was the intention of the Government to introduce a Bill next Session which would deal with the whole question of the Ecclesiastical Courts. In the meantime, however, he saw no reason why their Lordships should not pass that other portion of the present

Bill which related to the creation and constitution of a separate tribunal for the trial of those questions of divorce *a vinculo matrimonii* which were now so ill dealt with by their Lordships in the way of retrospective legislation for each particular case. He therefore moved the omission of the first eleven clauses and the last clause in the Bill.

LORD CAMPBELL said, he was sorry that this important subject should be brought forward in so thin a House, and expressed his sincere regret at the announcement which his noble and learned Friend on the woolsack had just made. He thought it would be much better to postpone the Bill altogether than to let it pass in the mutilated form which it would assume if the first eleven clauses were omitted. He heard with astonishment and dismay that the Government had dropped the Testamentary Jurisdiction Bill. He had received from his noble and learned Friend a solemn pledge that the Government would do its utmost to pass that Bill in the present Session, and an assurance that there was no truth whatever in the rumour that the Bill was about to be withdrawn. Yet their Lordships were now told, without any reason whatever being assigned, that it was the intention of the Government to abandon a Bill which had received the assent of a large majority of that House. He did not think that was very complimentary to their Lordships or to his noble and learned Friend on the woolsack, who brought in the Bill, and who, after it had left their Lordships' House, still thought it would be passed during the present Session. Only one change had been made in the Bill by their Lordships—the omission of real property; but if that was disapproved by the Government, it might have been put right in the House of Commons, and probably their Lordships would have been prepared upon reconsideration to pass the Bill in its original shape. But, for no reason that he could possibly conjecture, the Bill was entirely withdrawn. He had a most sincere desire to support the present Government. He thought it was for the interest of the country that it should be supported, and he gave it his most hearty support when he could; but he could not but deplore and condemn the abandonment of the Testamentary Jurisdiction Bill without any reason whatever, and without even making an effort to carry it in the present Session. But the thing was now inevitable—the Bill

was consigned to oblivion, for a time at any rate; and that being so, he could not say that it would be prudent to proceed with the Divorce Bill in the present Session, although their Lordships were perfectly willing to pass it into a law, not only with respect to divorces *a vinculo matrimonii*, but with regard to all matrimonial causes whatever, and although he had no reasonable doubt that, if it had been sent down to the House of Commons in conjunction with the Testamentary Jurisdiction Bill, it would have been agreed to there also, and that both Bills would have been passed into a law. His noble and learned Friend on the woolsack had said again and again that it was much better to bring in the Bills that were necessary for reforming the Ecclesiastical Courts, one by one, than to present one mighty measure for the consideration of their Lordships; but now his noble and learned Friend had changed his opinion, for he withdrew not only the Testamentary Jurisdiction Bill, but that portion of the present Bill which referred to matrimonial causes, except that of divorce *a vinculo matrimonii*, and announced his intention to introduce a measure next Session which would deal with the whole subject of the Ecclesiastical Courts. Now, he must say that, under these circumstances, it seemed to him the better course would be to allow both Bills to remain over till another Session. He was as eager as any person could be that the jurisdiction which had been exercised by Parliament in granting divorces *a vinculo matrimonii* should immediately be put an end to; but he thought they could not do that unless they knew what was to be done respecting matrimonial causes generally. In the Queen's Speech from the Throne, Her Majesty recommended their Lordships and the other House of Parliament to take into consideration the subject of divorce and matrimonial causes, and he could not see how it was possible with any advantage now to separate that subject into two parts. He could only express his opinion that the less evil would be to withdraw the present Bill, as well as the Testamentary Jurisdiction Bill, and to allow them both to remain in a state of suspended animation until next Session, in the hope that he and those who thought with him might then gain the object which they had so long been anxious to attain.

THE BISHOP OF OXFORD trusted the noble and learned Lord on the woolsack would follow the advice which had just

been tendered to him by the Lord Chief Justice. He for one was perfectly convinced that this great question, touching as it did the family life of England and those domestic ties which lay at the very root of all their chiefest blessings, could not be satisfactorily dealt with in the way in which the Bill, as it now stood, proposed to deal with it. The present Bill was only a part of a large and comprehensive measure, and standing thus alone, the Testamentary Jurisdiction Bill having been withdrawn, and even some of its own most important clauses proposed to be omitted, he should be disposed, in a fuller House, and at an earlier hour, to contend—if not for the indissolubility of the marriage tie in cases of adultery—that the effect of the Bill, as it now stood, being carried into execution, would be to give an encouragement and facility to that which all good legislation sought to check and control. He trusted that the whole question would be dealt with in another Session with the calm consideration which it so manifestly required, and that they would not be even asked to proceed to-night a step further with the fag-end of a mutilated Bill upon so important a subject.

LORD REDESDALE expressed the hope that his noble and learned Friend on the woolsack would yield to the feeling of the House by withdrawing the Bill, which touched only a small portion of a subject that would be much better discussed as a whole at an early period of next Session.

THE LORD CHANCELLOR, in reply to the remarks of the Lord Chief Justice, said it was perfectly true that some month or six weeks ago he told his noble and learned Friend that it was the intention of the Government to press the Testamentary Jurisdiction Bill. It was also quite correct that upon various occasions he had expressed his belief that the most effectual way of accomplishing a reform of the Ecclesiastical Courts was to deal with the subject by separate Bills, and not to have one great measure that would present many points of attack, and be open to many objections from different quarters. He repeated that statement now; but unfortunately it was anticipated that large parties would be united in the other House against the Bill, and petitions had been presented in great numbers from parties out of doors, urging that the whole subject should be considered in another Session. In consequence of this, the Government came to the conclusion, that it would be a mere

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idle waste of time to proceed with the Testamentary Jurisdiction Bill in that House during the present Session, or to attempt to resist the opinion which had been expressed both there and elsewhere, that the subject should be dealt with as a whole. It occurred to him, however, that while it would be impossible for him, that being the feeling of the House of Commons and of many of their Lordships, to deal with that part of the Divorce Bill which transferred the matrimonial jurisdiction of the Ecclesiastical Courts to the Court of Chancery, Parliament might still be disposed to pass into a law that other portion of the Bill which did not interfere with the jurisdiction of the Ecclesiastical Courts at all, but referred to a totally different matter. He should have been very glad if that had been done; but as their Lordships on both sides of the House appeared to hold a contrary opinion, he did not feel that he was in a position, even if he had the power, to oppose a wish which had been so generally expressed, and therefore he would not proceed any further with the Divorce Bill in the present Session.

LORD CAMPBELL desired to express his firm belief and knowledge that it was not his noble and learned Friend's fault that the Divorce Bill and the Testamentary Jurisdiction Bill would not appear upon the Statute-book at the end of the present Session. He knew that his noble and learned Friend had done his utmost to pass both measures.

Order *discharged*; and Bill, by leave of the House, *withdrawn*.

#### BANKRUPTCY BILL.

THE LORD CHANCELLOR moved the second reading of this Bill, which was to carry out certain portions of the recommendations of the Bankruptcy Commissioners. He understood that some opposition would be offered to one or two of the clauses, which he would be glad either to modify or to strike out altogether in Committee. Their Lordships were perhaps not aware that the Bankruptcy Court was itself become very nearly bankrupt. It was a self-supporting court, maintained altogether by fees, and the business had so fallen off that those fees would very shortly be inadequate to the maintenance of the establishment. It had been thought desirable, therefore, that a measure should be passed enabling him not to fill up vacancies in those parts of the establishment where there were at present a great many

more functionaries than were necessary—he referred to commissionerships in the country, where there were two commissioners in one place. It was quite clear that one of them might in all cases be dispensed with; and, indeed, with respect to two vacancies which had recently occurred he had abstained from filling them up. One portion of the present Bill sanctioned that proceeding, and empowered him to act in the same way with regard to future vacancies. Their Lordships were aware that parties could make themselves bankrupts by filing a declaration of insolvency. That was supposed to lead to abuses in cases, for instance, where the parties had no money to distribute among their creditors; and a Bill was passed in 1847, enacting that no person should be at liberty to adopt that course unless he was able to pay 5*s.* in the pound. That Act had put an end to three-fourths of the business of the Bankruptcy Court. The Commissioners recommended that the 5*s.* in the pound restriction should be done away with, and that it should be enacted that no person should be at liberty to file a declaration of insolvency unless he was possessed of assets to the amount of 150*l.*—a sum which would pay all the expenses. It was thought that this alteration might increase the business in the Bankruptcy Court, and so augment the means of its self-support.

LORD CAMPBELL was understood to approve of the measure, and he hoped that when the measure went elsewhere it would not be opposed.

Bill read 2<sup>a</sup>, and committed to a Committee of the whole House on *Thursday* next.

#### THE CRIMINAL LAW AMENDMENT BILLS.

THE LORD CHANCELLOR *moved*, That a Select Committee be appointed to consider the Nine Criminal Law Bills, including those of last Session, with the letters of Judges to the Lord Chancellor, and to report as to the course which it will be expedient to pursue in relation to the said Bills, and the recommendations of the Criminal Law Commissioners. The noble and learned Lord said, that differences of opinion existed between noble and learned Lords as to the course that was proper to be pursued with regard to a codification of the criminal law. For himself he almost despaired of such a codification passing the House in the usual form. In the case of a former attempt

eleven complete days had been spent in discussing it, and the measure was imperfect, and he believed that the failure was occasioned by their endeavour to strike off at once a complete whole, which should be a sort of model for all succeeding legislation. At the same time he thought much good would result from referring these Bills, which aimed at a consolidation of the Statute law, to a Select Committee, that they might determine upon the proper course to be taken with regard to them.

LORD CAMPBELL thought that the only chance of obtaining a code would be by Parliament vesting the power of framing one in certain individuals—naming them—and then adopting or rejecting it as a whole. But, like his noble and learned Friend, he despaired of obtaining a code if it were to be passed in the usual manner by the two Houses, to be canvassed clause by clause in that House by Chancellors and ex-Chancellors, and in the other House by aspiring lawyers, by all who held or hoped to hold office. The *Code Napoléon* was framed as a whole and adopted as a whole; and it was only by dealing with the measure as a whole that they could ever hope to have a code in this country. With regard to the Bills referred to by his noble and learned Friend, he considered them as likely to be extremely useful as consolidations of the Statute law, following the excellent example which was first set by Sir Robert Peel, and which had been so beneficially followed by others since; but when they came to abolish the common law, its substitute could only be dealt with as a whole.

THE LORD CHANCELLOR hoped it would not be understood that he expected all or any of these Bills to pass this Session. What he promised was this, that as soon as the Select Committee had agreed on their Report, he would devote himself during the recess, along with the gentlemen who had originally prepared them, to put them into a proper form, to be immediately introduced into their Lordships' House next Session. He agreed in much of what his noble and learned Friend had said with regard to a code. The noble and learned Lord (Lord Brougham), to whom they were indebted for most of these Bills, proposed to begin the code with enacting, that from and after the passing of such an Act, nothing should be unlawful except what was forbidden in it. Now, he always thought that was the point which they should endeavour to work up to, not that

on which they should take their stand at first and work down from. When they had provided a consolidation of the various offences, then would be the proper time to abrogate all other provisions. He thought the Bills now before the House did tend to facilitate this course, and he therefore moved that they be referred to a Select Committee.

On Question, *agreed to*; and Committee named.

House adjourned till To-morrow.

## HOUSE OF COMMONS,

*Monday, July 10, 1854.*

MINUTES.] PUBLIC BILLS.—1° Spirits (Ireland); Chancery Amendment; Returning Officers. 2° Standard of Gold and Silver Wares; Criminal Justice; Militia (No. 2); Joint Stock Banks (Scotland); Poor Law Commission Continuance (Ireland); Highway Rates; Heritable Securities (Scotland); Turnpike Trusts Arrangements; Turnpike Acts Continuance, &c.; Jury Trial (Scotland); Incumbered Estates (West Indies); Benefices Augmentation; Friendly Societies (No. 2).  
*Reported*—Savings Banks.

### BRIBERY, &c., BILL.

Order for Committee read; House in Committee.

LORD JOHN RUSSELL said, that the Select Committee to which this Bill had been referred had gone through the whole of its provisions with great care, and had amended the Bill in several respects. They had added to it several clauses, taken out of the Bill of the hon. and learned Member for East Suffolk (Sir F. Kelly), and also other clauses that were proposed by the right hon. Gentleman the Member for Midhurst (Mr. Walpole). There were especially some clauses with respect to an election officer, which, although their spirit was contained in the clause of his (Lord J. Russell's) Bill relative to agency, yet must be considered as being entirely new. He believed these new clauses were of very great importance, and would be of essential service in furthering the object of the measure; and he hoped that, with them inserted, the Bill would encounter no difficulty in passing through Committee. He thought it would not be desirable to proceed during the present Session with the Controverted Elections Bill.

MR. H. T. LIDDELL said, as the noble Lord did not think it desirable to proceed with the Controverted Elections Bill this Session, he (Mr. Liddell) wished to make

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a few observations for the purpose of setting himself right with the Committee and the public, in consequence of having given notice of an important change which he wished to submit to the consideration of the House with regard to the tribunal before which controverted elections should be tried. He had intended to bring that subject before the Select Committee appointed to consider the Controverted Elections Bill; but as it appeared that that Bill was to be postponed until another Session, of course he should have a future opportunity of doing so. He believed that the Bribery Bill they were now about to discuss, if it passed into a law, would go a great way towards diminishing those cases of bribery and corruption which had so long been a scandal to the country, and thereby materially diminish the necessity of appointing Committees to inquire into controverted elections. None of them could, however, be so sanguine as to suppose that these cases would be entirely put a stop to by any legislation that might be adopted, and he thought that with respect to the cases of controverted elections which might arise after the passing of this Bill, they would be almost entirely classed under the head of constructive agency, the point of dispute which it was always most difficult to settle.

Clause 1 *agreed to*.

Clause 2 (Imposing penalty for Bribery, &c.).

SIR WILLIAM JOLLIFFE said, he thought the word "authorised" should be inserted in the clause, so that it should read, "any other authorised person in his behalf." Without some such word the candidate might be made liable for acts in regard to which he was in no way whatever responsible.

MR. HENLEY said, he had great doubts about the adoption of the word "corruptly" in the latter part of the second section of this clause:—"Or shall corruptly do any such act as aforesaid [procure a place] on account of any voter having voted or refrained from voting at any election."

MR. VERNON SMITH said, it would be possible for a man to allege having voted for a candidate as, among other reasons, a ground why a place should be obtained for him, and the Select Committee thought that, unless the word "corruptly" were inserted, too much would be left to the jury.

MR. WALPOLE said, the Committee should remember that they were now en-

gaged in consolidating the law, and it was an important object to make the law perfectly clear by not having an unnecessary quantity of words, and at the time to include in the law those words which had had a legal meaning put upon them by the courts. The Statute of *Geo. III.* ran in these terms:—"If any person, after the passing of this Act, by himself or any other person or persons for or on his behalf;" and the courts of law had put the construction upon those words, that they meant that the party did it by himself, or by the agent acting for him, for whom, by the common law, he would be responsible. He thought it not advisable to alter the words.

MR. HILDYARD said, though an agent might by a given authority bind you in your civil matters, if he exceeded his authority you could not be rendered criminally responsible for anything he might do. He was not at all sure, however, that they did not run wide of this theory whenever they came before a Committee of the House of Commons, and that it would not be wise to introduce some words in the clause to show that they were not altering the law in this respect.

LORD JOHN RUSSELL said, that "any other person on his behalf," implied that that person should be "authorised" on his behalf. The addition was, therefore, unnecessary.

MR. AGLIONBY said, he should like to know how many Members of that House had unjustly lost their seats from the interpretation of agency by Committees? He had himself nearly lost his seat for matters done by others of which he was as innocent as the child unborn. It was monstrous that a candidate inclined to do what was right, and who regarded bribery and corruption with scorn and horror, should be sacrificed because some person who might be a member of his committee at the election, had exceeded his authority, and thought he could benefit his candidate by making a promise. No man ought to be considered an agent if he exceeded his authority. The words "on his behalf" were too loose and too dangerous to be allowed to remain as they were without some addition.

MR. J. G. PHILLIMORE said, he was of opinion that the clause implied all that the hon. Gentleman (Sir W. Jolliffe) wished to convey by the word "authorised."

MR. VINCENT SCULLY said, great care should be taken in framing the clauses

of such a Bill as the present, because a general authority might be given to an agent to do all things which were perfectly legal, while he might receive no authority whatever from his principal to do acts which were illegal; and it would be monstrous if a person employed an agent who, against his authority and without his knowledge, committed acts of bribery, that the candidate should be liable under the Act to the penalties, should go forth branded as a criminal, and be rendered incapable of sitting in Parliament for seven years. To justify the imposition of such penalties as that on a candidate, it ought to be shown that he had given authority to the agent to do the particular act charged as bribery, otherwise he might find himself stigmatised as a criminal when he was perfectly innocent, and for that reason he should say the word "authorised" ought to be introduced.

MR. DISRAELI said, he thought that they ought to consider this clause not merely with a regard to the interpretation by courts of law, but by Committees of that House. They ought never to forget that in passing Bills of this nature. He thought the word the noble Lord (Lord J. Russell) first introduced was a very good word, one which was very well understood, which well conveyed the meaning, and one, upon the whole, which would lead to the administration of justice in these cases. But he considered the introduction of the word "authorised" would not so alter the clause as to at all interfere with the courts of law. He would go further and suggest the addition of the words "actually authorised," or "legally authorised," which he considered an addition that the Committee would do well to adopt.

THE ATTORNEY GENERAL said, he thought there was no ground for the apprehensions expressed by the hon. and learned Member for Cork (Mr. V. Scully). It would be recollected that this was a penal Act, which would be construed strictly, for if anything more than another was settled, it was that a man could only be convicted of a criminal offence where it was proved he had a criminal intention in committing the act with which he was charged. Nothing could be more fixed than that principle of law, which, as applied to cases of this description, affirmed that no one was criminally responsible for the act of another, unless he had expressly authorised the person charged to commit it. The clause as it stood must lead to the

question, whether the candidate authorised the particular act in question. A person might authorise his agent to bribe generally—an offence which could be dealt with by the present Committee law; but when they came to criminal charges, the only question was, whether a particular offence was proved, because, unless there was a distinct and particular authority, the party could not be convicted. He did not apprehend there would be any danger in construing the Act as it stood, and considered that the proposed alteration was unnecessary.

SIR FITZROY KELLY said, he agreed with the hon. and learned Attorney General that the words proposed to be added were quite unnecessary in all cases where there was a special prosecution for a criminal offence. It was quite true that, in a civil action, and before an Election Committee, an act done by an agent might be deemed in law to have been done by the principal, and he must be bound thereby, although it might happen that he was entirely innocent of the particular act, and gave no actual authority for its performance; but the present clause was introduced with a view to criminal proceedings, and it was clear that no one could be convicted of a criminal offence by reason of any constructive authority supposed to be conferred on an agent. If an indictment were preferred against any candidate for bribery committed by an agent, it would be incumbent to show that the particular act charged was committed by the express authority and with the knowledge of the candidate, and it was questionable whether an offender might not escape in consequence of the introduction of those words. The present clause meant merely to define bribery in respect to probable prosecutions; but it would be found that, by other parts of the Bill, acts which constituted bribery would also void the election, and questions would be raised before Committees as to whether the election of persons returned to Parliament was voided by what was alleged to be an act of bribery committed, not by the candidate himself, but one who was alleged to be his agent. But although such questions might arise, he thought it was better to guard against the evil which would arise by the insertion of the words than to anticipate any inconvenience that might arise, so far as regarded the civil liability. He thought that the introduction of the word "authorised" alone might do more harm than good with reference to

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criminal prosecutions, and that the clause was better as it stood.

Mr. PHINN said, there was no provision given in the Bill with reference to voiding elections before Election Committees; the disability was a practical result of the criminal conviction, as would be seen by the 6th clause.

SIR JOSHUA WALMSLEY said, that on many occasions persons had been considered agents by Election Committees on account of having been seen in a committee-room with a candidate, and having afterwards called upon persons requesting them to vote for such candidate. The candidate was clearly not responsible for the act of any person whom he had not specially authorised, and it was to avoid that that the words were proposed to be added to the clause by the right hon. Member for Buckinghamshire (Mr. Disraeli).

Mr. AGLIONBY said, he wished to know what would be the effect of such a clause upon an Election Committee? It had been said that it would not come before them to be construed, but the Act would be referred to by the Committee to see what the Legislature intended. He must say, for one, that, looking at the Act as a guide to the intentions of Parliament, on the face of the Act, they would appear extremely stringent, inflicting, as they did, such heavy penalties. On the whole, if a division took place, he should vote for the addition of the words.

THE ATTORNEY GENERAL said, that he hoped the principle of law, which considered a candidate liable for the acts of his agents, would not be altered, and he considered, if the proposed words were added, it would open the door to corruption.

LORD SEYMOUR said, unless there was some rule laid down as to a special authority, any Member living near the part he represented would be obliged to deal with his political opponents, otherwise he might be charged with dealing with tradesmen for the purpose of obtaining their votes.

Mr. HENLEY said, he was afraid that would not meet the difficulty, as the same charge might be brought against him for dealing with his opponents.

LORD JOHN RUSSELL said, that the law, according to the Act of *Geo. II.*, already provided against those who gave money, either by themselves or others, for the purpose of obtaining votes. The object of the present Bill, as stated in the

preamble, was to make the laws for preventing corrupt practices in the election of Members to serve in Parliament more efficient, whereas it would seem to be the wish of hon. Gentlemen on the other side to make the laws less efficient. It was quite a different question as to what the Election Committees might consider with regard to the Act; the real question had reference to the penal consequences to the man who gave money for bribery, and it was evident it made little difference in the principle whether a man gave another a large sum of money to be used in bribery generally, or whether he authorised him to bribe in a particular case. At all events, he thought it would not be right to make the law less stringent than before.

MR. HILDYARD said, the real question they were now discussing was as to the definition of bribery, for it could not be denied that the definition adopted in the present Bill, although it might be taken from an old Statute, would be looked upon as the definition of bribery solemnly adopted by the House of Commons while legislating on the subject. He thought it was highly desirable that there should be no doubt as to the intention of the Legislature, and, therefore, that the proposed words should be introduced.

THE ATTORNEY GENERAL said, that if he rightly understood hon. Gentlemen opposite, they were desirous of introducing a change in the law administered by Election Committees, which he thought would be most objectionable.

MR. MONCKTON MILNES said, it could not be the intention of Parliament to punish persons for acts committed without their sanction and authority; and he considered that if any persons calling themselves agents of candidates, who committed acts of bribery, were to involve their principals in the general consequences of those acts, a feeling of sympathy for the persons unjustly punished, which would be most injurious to public morality, would be excited throughout the country.

SIR WILLIAM JOLLIFFE said, that with reference to the taunt of the hon. and learned Attorney General, he begged, on behalf of hon. Gentlemen on that (the Opposition) side of the House, to repudiate any desire to render the law against bribery less stringent, or to afford the slightest protection to persons committing such an offence.

MR. HEADLAM said, he was of opinion that the introduction of the words "actually authorised" into the clause would be perfectly useless, and that the adoption of these words might lead to very mischievous results, in consequence of the minute and refined questions that might arise in courts of law as to their precise meaning. He considered that the best plan was to make the language of Acts of Parliament as clear, plain, and simple as possible, and he hoped, therefore, that the Committee would assent to the clause as it now stood in the Bill.

MR. VERNON SMITH said, he should support the introduction of the words "actually authorised." He must say he considered that the law of agency was on a most unsatisfactory footing. If the servant of a gentleman went into a town, without any authority from his master, and told electors that if they voted for a particular candidate, his master would recompense them for the service, would the master, under such circumstances, be held responsible for the act of his servant? [An hon. Member: No, no!] Well, he (Mr. V. Smith) could not help thinking that the master would be in great danger of being held responsible if the case was decided by a partisan jury. He considered it most desirable that they should have as strict a definition as possible of the meaning of the words "on his behalf," and he therefore hoped that the words "actually authorised" would be inserted in the clause.

SIR ERSKINE PERRY said, he would venture to assure the Committee that no such consequences could arise from the clause as were apprehended, and that no man could be convicted under the clause, unless he had actually authorised the commission of the offence. If the addition of these words had the effect of throwing doubts upon the law affecting any branch of civil agency they certainly ought not to be inserted, because if any part of that law required alteration, it should be dealt with by a specific enactment. The Committee had received the unanimous opinion of all the legal members that such would be the effect of such an alteration of the clause, and he hoped therefore that it would not be pressed.

MR. AGLIONBY said, that as there was no Amendment before the Committee, he would propose that the word "authorised" be inserted in the clause, after the

word "person." He regarded the word "actually" as surplusage, but of course it was competent to any hon. Member to move the insertion of that word also. He should divide the Committee on the Amendment.

MR. MANGLES said, he did not, from the fair grammatical construction of the clause, think there was any necessity for the introduction of the word.

MR. GROGAN said, he thought that no amendment of the clause would be necessary if the Committees of the House of Commons were composed of competent lawyers. That, however, was not the case, and the very fact of the long discussion which had taken place on this clause sufficiently showed the necessity of some more precise definition of agency than it at present contained.

LORD JOHN RUSSELL said, there seemed to be some misapprehension as to the object of this clause, and its bearing with respect to Election Committees. The object of the clause was to provide for the punishment of bribery in certain cases, but that was a very different matter from the questions which were submitted to Election Committees, who had no power to punish persons guilty of bribery. The clause with which the Committee was now dealing had reference to the punishment of persons guilty of bribery, and the definition of the offence. The right hon. Member for Northampton (Mr. V. Smith) had asked whether a servant who, without any authority from his master, promised money or any other consideration to electors who voted for a particular candidate would thereby expose his master to punishment for bribery? He (Lord John Russell) thought that the best answer to that inquiry was given on the high authority of Lord Lyndhurst, who, when Chief Baron, with reference to the interpretation of the words "on his behalf," occurring in the Treating Act of William III., said it was quite clear, from the words of the section, that the act must be done by the candidate himself, or by some person for him acting on his behalf; and that the words "on his behalf" must be taken to include any acts done by the desire and with the knowledge of the candidate—acts which the candidate procured to be done. It was, therefore, clear that a person acting on behalf of a candidate, without any authority whatever, would not expose such candidate to the consequences of his acts.

*Mr. Aglionby*

Question put, "That the word 'authorised' be there inserted."

The Committee divided:—Ayes 110; Noes 141: Majority 31.

LORD ROBERT GROSVENOR said, he wished to ask the hon. and learned Attorney General whether this clause would render it illegal to pay the travelling expenses of voters?

THE ATTORNEY GENERAL said, that it did not touch that question. It had been held by many Election Committees that, if money paid as travelling expenses was so given, as a cloak for bribery, it was illegal; but that it was not illegal to give money *bona fide* for travelling expenses. This state of the law would not be affected by the present clause.

Clause agreed to.

Clause 3 (Further defining Bribery).

MR. HENLEY said, he wished to ask whether it was not exceedingly oppressive to enact that a man should be deemed guilty of bribery, and therefore a misdemeanant, if he "asked for" a bribe? That would make any man guilty of an offence if he asked for a shilling to purchase liquor.

MR. PHINN said, that this very provision was contained in the Statute of George II. He thought it was very desirable for the protection of candidates from applications for places that it should be made an offence to ask for anything as a consideration for voting.

MR. J. G. PHILLIMORE said, he objected to the provision because he thought it could not be enforced.

MR. AGLIONBY would support the clause as it stood, because it would have the desirable effect of protecting candidates from those pressing applications for situations to which they were exposed, particularly when standing for large towns.

MR. HEADLAM said, he believed that no prosecution could be sustained under this provision, and he would, therefore, suggest that it should be omitted. He believed that it was very mischievous to have on the Statute-book laws which could not be enforced; and he should, therefore, move to amend the clause by striking out the words "or ask for" in the definition of the offence to which it referred.

MR. HILDYARD said, that by passing the clause as it stood they might purchase exemption for themselves, but they would

in many cases subject their constituents most unjustly to actions.

THE ATTORNEY GENERAL said, he thought the words had better remain as they were. Half the instances in which it was alleged that candidates had been guilty of corruption arose from voters having asked for something—a thing to which every Member was exposed in the course of his canvass; and it would be a great protection to a candidate in such a case if he were enabled to say to the voter, “You are asking me a question which involves you in the liability to penalties.” When once voters got to know that the mere corrupt solicitation involved them in heavy penalties they would be very likely to desist.

MR. I. BUTT said, that in criminal legislation they ought above all things to be correct and definite; and, if there was one case more than another to which that principle ought to be applied, it was a case of this kind, in which they professed to make a conversation a crime, which conversation was always likely to be loosely reported. He objected to their attaching the penalty of a misdemeanor to words so vague as those of “indirectly asking for.”

MR. GOULBURN said, that while they protected the candidate they must not forget the voter. Now, there would always be, as at present, many voters who were very ill-informed as to the contents of the Act of Parliament; and, if upon a canvass an elector should say to the candidate, “Will you be good enough to do something for one of my sons?”—that would render him liable to prosecution. Some one of the adherents of the candidate might take up the words, frighten the voter by telling him he had committed an offence, and give him the alternative of voting in a certain way or of being prosecuted. Here, therefore, would be a means of enforcing votes which no candidate ought to possess.

SIR JOHN PAKINGTON said, he was also of opinion that the voter would often quite unknowingly and unconsciously render himself liable to prosecution, and that then, if he happened to be overheard by an unscrupulous political opponent, this would frequently be made use of in order to squeeze out his vote contrary to his wishes and intentions.

LORD JOHN RUSSELL said, that many dreadful consequences had been conjured up as the result of these words; but when they knew that for seventy or

eighty years this had been the law of the land, and that the words were used in the old Act of Parliament, these apprehensions ought to be diminished. He thought it ought to be marked by this Act that it was an offence for a man, who ought to vote according to his political preferences, to seek for some inducement or bribe in return for that vote.

MR. I. BUTT said, the noble Lord was scarcely accurate when he alleged that anything like this had been the law of the land before. It was true that the 7th of George II. made the asking for a place or gift a misdemeanor, but that Act did not contain the words “indirectly ask for.” These words made the offence most indefinite and vague; and the fact he had stated took away very much of the force of that which would otherwise be a strong argument.

MR. E. BALL said, in making this law they ought not to make it so stringent as to be entirely inoperative. The very fact of a man whom a candidate canvassed for his vote saying, “I hope I shall have the pleasure of drinking your honour’s health,” would subject him to this penalty. He (Mr. Ball) had never heard that a man asking a Minister in that House for a place disqualified him from sitting in that House. Why, then, should he (Mr. Ball) place a voter in a position such as he should not like to be placed in himself?

MR. NEWDEGATE said, he was convinced that the offence created by the clause would be used as a means of intimidating the voter.

MR. J. G. PHILLIMORE said, he considered that the clause would remain a dead letter if these words were insisted on. The clause proposed to enact the same punishment for different offences—the same for asking for and the same for receiving a bribe. Now, although perhaps morally there was no difference between the two offences, as regarded society there was a broad distinction.

MR. BOOKER said, he would suggest that, instead of making the asking for a bribe a misdemeanor, it should be made to involve only the forfeiture of the vote.

LORD JOHN RUSSELL said, there was perhaps some force in the statement of the hon. and learned Member for Leominster (Mr. J. G. Phillimore) that the two offences received the same punishment, and he would therefore consent to leave out the words in question, on the understanding that he should afterwards propose

words which would have the effect of inflicting some penalty on those who asked for a bribe.

Words *struck out* from the clause.

LORD ROBERT GROSVENOR proposed the insertion of words making any payments for the conveyance of voters illegal. The conveyance of voters formed a very large item in the expenses of every candidate both at county and borough elections, and as the House of Commons were determined to put down bribery, not only directly but indirectly, it would be very desirable to make this payment entirely illegal.

MR. LIDDELL said, he should oppose the introduction of the proviso, the effect of which, he thought, would be to disfranchise the out-voters in counties. It would be a great injustice to those voters to expect them to go to the poll at their own cost.

MR. GOULBURN would suggest to the noble Lord that this was not the proper place in the Bill to bring on the question, and that it would be more convenient if he were to bring up a separate clause referring to the subject.

MR. BECKETT DENISON said, that the effect of such a proviso would be practically to disfranchise a large portion of the out-voters in counties. Every one knew that many voters, if not brought up to the poll at the expense of one or other of the candidates, would not vote at all.

LORD ROBERT GROSVENOR said, he would not at present press his Amendment, but on a future occasion he would bring the question under the consideration of the House.

Amendment *withdrawn*.

Clause *agreed to*.

Clause 4 (Defining Treating).

SIR JOHN PAKINGTON said, he hoped that some explanation would be given as to whether the extreme severity of this clause was necessary. The first part of the clause provided that—

“Every candidate at an election, who shall by himself, or by or with any person, or by any other ways or means on his behalf, at any time either before, during, or after any election, directly or indirectly give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay, wholly or in part, any expenses incurred for any meat, drink, entertainment or provision to or for any person, in order to be elected, or for being elected, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election.”

He wanted to know the meaning of the  
Lord J. Russell

words “in order to be elected or for being elected?” They must be either superfluous, or else they must have some meaning, and he should be glad to know what their meaning was? He would suggest to the Committee that the comprehensive wording of this clause would forbid the most ordinary hospitality on the part of a Member of that House. The words in the clause were “at any time, before, during, or after any election,” so that the time was perfectly unlimited. He did not intend to propose any Amendment, but he wished to hear some explanation as to the necessity of this enactment.

THE ATTORNEY GENERAL said, that the provisions in the clause consisted of a re-enactment of the provisions of existing Statutes. Those provisions, however, had not been found to operate oppressively. On the contrary, they had not been effectual in attaining the object for which they had been framed, for, as the Committee were well aware, treating had prevailed to a great extent at elections of late years. In his opinion the exercise of an ordinary hospitality upon the part of a candidate towards his agents would not come within the operation of the clause.

SIR JOHN PAKINGTON said, that the difficulty he entertained was as to the wording of the clause. It appeared to him that if any candidate invited his agent or any of the members of his committee, he would be liable to a penalty, as he did so for the purpose of being elected.

MR. WALPOLE said, he believed that a vast amount of corruption was carried on by the system of treating. With regard to the words complained of by his right hon. Friend, they were the same words as existed in the Statute passed in the year 1695, in pursuance of a Resolution of that House against treating, and again, in the 5 and 6 Vict. c. 102, and he did not think that it would be advisable to leave them out in the present clause. It was most desirable to put an end to treating as much as possible, as it had, no doubt, been carried on to a considerable extent. In one case that had come before a Committee of that House, on which he had served, it had transpired that there were, during an election at Huddersfield, fifty public-houses filled with voters and four filled with non-voters, and scenes of great profligacy occurred. It was most desirable to prevent the recurrence of such scenes, and he was, therefore, opposed to the words complained of by his right hon.

Friend (Sir J. Pakington) being struck out of the clause.

MR. BECKETT DENISON said, he wished to know whether, if this clause were carried, it would be legal to give refreshment tickets to voters?

THE ATTORNEY GENERAL stated that the practice of Election Committees differed very much as to what they considered treating. His own opinion was, however, that such tickets would be clearly illegal, and he had no doubt whatever, but that a court of law would so decide it.

MR. BECKETT DENISON said, he then thought it highly important that the Committee should clearly understand whether or not the clause would have the effect of making refreshment tickets illegal. If it did so, it was his opinion that one-half, at least, of the electors would be practically disfranchised, for great numbers of the poorer voters would never come to the poll unless their expenses were paid.

MR. STANHOPE said, he was of opinion that if the granting of refreshment tickets were made illegal, the result would be that many voters would be prevented from coming to the poll at all; and if no modification were made in the clause, he should, at a later stage of the Bill, move the insertion of a clause to the effect that the officers connected with an election should, upon application to the candidates, have power to issue to each voter a refreshment ticket not exceeding in value the sum of two shillings.

LORD ROBERT GROSVENOR said, he did not see why polling places might not be so placed throughout the various counties as to render it unnecessary that electors should have to go to any considerable distance from their homes in order to give their votes. If that were done, the payment of travelling expenses or the giving of refreshments would be rendered wholly inexpedient. For his own part, he should hope that the Committee would refuse to adopt the clause which the hon. Gentleman who had just sat down had announced it to be his intention to propose.

MR. HEADLAM said, he admitted that the law of treating was exceedingly uncertain, because it could not be clearly defined what were, and what were not, legal refreshments; in order to get rid of that uncertainty which was admitted by the hon. and learned Attorney General, he would suggest that this clause should be post-

poned with the view of its being so amended, as to remove all doubt in the matter.

THE ATTORNEY GENERAL said, that it was the conflicting decisions of Election Committees that had rendered the law of treating uncertain; it was not the law itself that was uncertain; and if he were asked to give his own individual opinion upon the point which had been suggested by the hon. Member for the West Riding (Mr. B. Denison), he should have no hesitation in saying that such refreshments were illegal.

MR. WALPOLE said, he must maintain that the existing law was quite sufficient to meet all cases of illegal treating. This clause simply consolidated that law without rendering it more severe.

MR. EVELYN DENISON said, the hon. and learned Attorney General had stated, that if a candidate were to entertain an agent and two or three friends at dinner, in the course of the canvass, it would not be construed to be a corrupt influence, but merely the exercise of ordinary hospitality. If this were really so, how could it be a corrupt action to give a poor man who came from a distance of ten or fifteen miles, and was obliged to travel at his own expense, either some slight refreshment, or a ticket of the value of two shillings for his day's entertainment? If the one case was merely the exercise of ordinary hospitality, it would be extremely hard to constitute the other a corrupt action, either on the part of the candidate or of the poor man who received the ticket. The question of travelling expenses appeared to be unsettled, and he hoped the noble Lord the President of the Council would be able to give some understanding upon it before the clause was further proceeded with.

MR. BECKETT DENISON said, he thought it would not be unreasonable to give a voter who had broken into his day's labour, and had travelled a distance of four or five miles at his own cost, some slight refreshment. He trusted the noble Lord the President of the Council would give some distinct understanding whether payments of this nature were to be considered illegal or not.

MR. DRUMMOND said, that he should have supposed that a dry discussion on technical phrases would not have produced a very lively or entertaining debate in the House of Commons. He confessed, however, that he had never assisted at any-

thing more amusing than the discussion upon this Bill. How any Gentleman could conceive that bribery could be carried on at elections in any but in one of three ways, namely, agency, travelling expenses, or treating, he could not imagine. Both sides were agreed that they would get rid of this dreadful thing—bribery. The first thing which came under consideration was agency, and the Committee immediately endeavoured to spoil the Bill by putting into it a piece of bad law instead of good law, in order that the country gentlemen might understand it. Then, upon travelling expenses, they proposed to leave matters just as they now stood. Was it possible to stop bribery in this way? The whole thing was a perfect farce. Then they came to refreshments. Call it a two shilling ticket, or any sum they pleased. But it was through these refreshments, and through these travelling expenses, that all bribery was carried on. ["No, no!"] Well, he would admit that there were some common, stupid fellows into whose hands a guinea was placed. But that was the exception. The main part of the bribery was carried on through the three things he had named, and against any effective alteration of these three things the Committee opposed itself strongly. The House of Commons talked about bringing in Bills for the purity of election! It was really surprising that Gentlemen having cut their wisdom teeth should sit there all night, and discuss matters after such a fashion.

MR. NAPIER said, he thought they were bound to define more explicitly what treating was, and he hoped the clause would be postponed for that purpose.

LORD ROBERT GROSVENOR said, he saw no necessity whatever for postponing the clause, as it simply consolidated the existing law of treating. There could be no doubt that refreshments were illegal, and the only reason why they had not been declared so by Committees was because, when a contest took place at county elections, it was agreed on both sides that refreshments should be distributed to the electors.

SIR JOHN PAKINGTON said, he thought the Bill ought not to be disposed of until the question of travelling expenses and refreshment tickets was set at rest, but at the same time he considered that they ought to form the subject of a separate clause, to be dealt with hereafter. The clause now before the Committee was

*Mr. Drummond*

directed solely to the evil of treating, and, in his opinion, it went beyond what was required for putting a stop to treating. He thought the words "for the purpose of corruptly influencing such person or any other person, to give or refrain from giving his vote at such election," were all that were necessary, and he would move an Amendment, that the words "in order to be elected, or for being elected," be omitted.

LORD JOHN RUSSELL said, he fully concurred with the right hon. Member for Midhurst (Mr. Walpole) in thinking it desirable to preserve the present provisions of the law, and he believed the effect of linking together the words of the Act of William III. and of the Act of Victoria would be to make the law clearer and more stringent. The Act of William III. was to prevent treating after the issue of the writ, but the Act of Victoria extended the time, and contained words which were of a very different nature from those in the former Act. The words inserted in the Act of Victoria were "for the purpose of corruptly influencing such person or any other person from giving his vote at such election;" and the Committee would see that that was an offence entirely different from that affected by the Act of William. For instance, there might be refreshments given at a county election upon both sides to a moderate extent, which could not be said to be given for the purpose of corruptly influencing the voter, but the more recent Act took cognisance of that extravagant treating which was principally entered into for the purpose of exercising a corrupt influence. But if the Act said that a person would be guilty of this offence, not only for corrupt treating, but who should pay any expenses incurred for eating and drinking, in order to be elected or for being elected, then any treating, the most moderate, which would not corruptly influence a man's vote, would amount to the offence of treating under the Act. He quite agreed that the Committee ought to decide this question of refreshments upon the present clause. The case was one upon which "much might be said on both sides." A great deal might be said in favour of moderate refreshment to voters who had come several miles to give their votes, but the most prevailing argument to his mind was, that treating, under any circumstances, opened the door to corrupt influences, and that it was better to abolish

it altogether, relying upon it that men who came from a distance to vote for a candidate would not go without a dinner. They would have some friend or other who would give them a dinner. [*Laughter.*] He thought it would be better to leave the clause as it stood, forbidding treating by the candidate altogether. If other words were required to make this intention more clear, he should be in favour of inserting them, and not of omitting the words proposed to be left out. He saw hon. Gentlemen opposite smiling when he said that voters who came from a distance would not go without a dinner. If a man had three or four labourers who came with him to the election, and if he took them and gave them some bread and cheese, that would not be a very corrupt transaction, and would not come within the scope of the present Bill.

SIR THOMAS ACLAND said, he should support the Amendment; but he considered the worst state in which they could leave the law would be to allow the question to remain an open one, and thus give to each Election Committee the power of acquitting a guilty man, or of ousting an innocent one at their pleasure.

LORD LOVAINE said, it appeared to him that the noble Lord the Member for Middlesex (Lord R. Grosvenor) had produced the strongest argument in favour of allowing candidates to give moderate refreshments to voters. The noble Lord had told them that he had found it utterly impossible to eradicate that practice, and that candidates on both sides were compelled to issue tickets for reasonable refreshments. Now, he (Lord Lovaine) thought the Committee would act wisely if they were to come to the conclusion that a practice so common and so necessary could not be put down by Act of Parliament, and that it would be better for them to attempt merely to restrict it within proper limits.

MR. W. J. FOX said, he believed that the honest and more intelligent portion of the working classes were favourable to the abolition of the refreshment system, which was the great nuisance of elections, and the cause of the scenes of riot and debauchery that disgraced our election contests. If voters would not come to the poll unless they were brought there and unless they had something given them to eat and drink afterwards, they did not deserve to have the franchise. Working men often sacrificed a day for the purposes of pleasure, and he believed they would

cheerfully sacrifice a day's work to vote for the candidate of their choice. He hoped the Committee would decide in favour of leaving the clause as it stood.

MR. HILDYARD said, he wished to draw the attention of county Members to the alteration which this Bill would make in the present law. Every person might sue any county Member who should give a farthing for travelling expenses or refreshment tickets. ["No, no!"] Why the agreement between the two candidates to issue these tickets would not prevent these proceedings, and any person would be authorised to sue any one who issued these tickets, and they might bring as many actions as there were refreshment tickets issued. County Members would thus have all the attorneys in the country at their backs, and if they did not take care there would be no county Members in the House, for, like the railway speculators two or three years ago, they would get out of the way to avoid the formidable consequences that would ensue. When, therefore, it was said that this Bill made no alteration in the law, he wished to draw the attention of county Members to the fact that they were altering the law, and in a manner which deserved their serious consideration.

MR. AGLIIONBY said, he would remind the Committee that the effect of this clause would be, that no agreements to pay travelling expenses or to issue refreshment tickets would be made, and thus a source of heavy expense and the pernicious custom of giving refreshment tickets would be done away with. It must be in the recollection of the Committee that a Bill had been brought in to legalise the system of issuing refreshment tickets, but the feeling of the House was against it, and that portion of the Bill allowing persons to give a reasonable sum for refreshment was negatived by a considerable majority. There was great difficulty in drawing the line between innocent bribery and corrupt treating, and he wished that the word "corrupt" had overruled the whole of the clause. In many boroughs, having a partly country constituency, a candidate went out seven or eight miles from the borough to canvass. He was introduced to gentlemen who knew the voters and their houses, and they accompanied him on his canvass. When they returned to the candidate's inn in the borough dinner was found prepared for him; but, unless he turned out of the room these gentle-

men, who had been canvassing with him all day, they would be subject to the penalties of this clause. The candidate of course asked these voters to dinner "in order to be elected," because, unless he did it, he could not canvass this district. If the word "corruptly" were introduced at the beginning of this clause, it would meet the case he had supposed.

MR. HENLEY said, he wished to call attention to the fact that a different construction was put upon this clause by his right hon. Friend (Mr. Walpole) and the noble Lord the Lord President. His right hon. Friend thought that "in order to be elected" meant something corrupt, but the noble Lord did not understand these words to mean anything corrupt, but said that it would extend to any treating of any kind. There ought to be some corruption to bring parties under this clause, and it should not apply unless the act were done to get a man to vote for a particular candidate, who otherwise would not do so. He agreed that the word "corruptly" ought to override the whole of this clause.

MR. COLLIER said, he thought that they ought then to settle the question of treating; and for his part, he wished to make it clearly illegal. He would propose that there should be added to the clause the words "or for any ticket or order entitling any person to refreshment."

THE CHAIRMAN: The hon. and learned Member cannot move this Amendment at present.

MR. WHITESIDE said, it had been ruled in the Court of Exchequer that giving moderate refreshment to a voter was not illegal; the distinction drawn being, that to give refreshment for the purpose of influencing an election was illegal, but that moderate refreshment, not given for a corrupt purpose, was not illegal. That distinction, which had, he believed, been drawn by Lord Lyndhurst, could not, however, be acted upon if the clause should pass as it stood, and the same penalty would attach to an offence, whether it were done corruptly or innocently. The clause, as it stood, was not only absurd, but could not be carried out.

THE ATTORNEY GENERAL said, he was ready to admit that it had been decided that moderate refreshments not given for the purpose of corrupting the voter were not illegal. But there had also been a contrary decision upon the same subject. He understood that those payments for re-

freshments were frequently justified on the ground that the voter would not go to the poll unless his travelling expenses and the expenses of his refreshments were defrayed by the candidate. But it appeared to him that in such a case the treating was decidedly illegal, because money or money's worth had been given for the purpose of carrying an election.

MR. E. BALL said, he would suggest that the word "corruptly" should be struck out of a line in the middle of the clause, and placed after the word "shall" in the first line, so as to govern the whole clause; he thought that alteration would get rid of the difficulty. He had conferred with his right hon. Friend the Member for Midhurst, and that course had his approval.

MR. PHINN said, he thought the time was come when the Committee should determine, first, what the law was; and secondly, what it ought to be on this subject. They would recollect that the Treating Act was passed, not merely for the purpose of putting down corrupt treating, but to diminish the expense of elections. There had been a long series of decisions and many conflicting opinions as to whether moderate refreshment tickets were or were not within the Treating Act; but hon. Members forgot that that Act had reference to a very different state of things to what at present prevailed. When the decisions in question took place there were only one or two polling places in a county, but they were now multiplied almost indefinitely, so that there was no necessity for voters coming a great distance to poll. The law had been settled on the subject by one very remarkable case known to all counsel practising before Committees, that of the North Cheshire Election Committee; which decided that where a moderate refreshment ticket was given indifferently, and not with a view to influence the election, it was not illegal. That decision was concurred in by Sir Robert Peel and by the noble Lord the Member for the City of London (Lord John Russell), although from different reasons, and therefore there could be no doubt that at the present moment the giving of such moderate refreshment was not illegal. But ought that state of the law to continue? Was it not a system which might open the door to great abuse? He quite concurred with the hon. and learned Member for Plymouth (Mr. Collier) that it was time to settle the question by the direct decision of the House, for he must say

*Mr. Aglionby*

there were so many difficulties, moral and legal, and so many prejudices to combat on the part of county Members, that he did not think that any other decision than that of the whole House upon the question would receive the respect of individual Members and Committees. They ought not, in his opinion, to leave open the door to corruption, which they would do unless they rendered such treating illegal. If, however, they did away with it at all, although almost every hon. Gentleman had argued it was necessary for counties, could they, he asked, have one rule for counties and another for boroughs? He was convinced that if they allowed a moderate refreshment for the counties, they must leave it open for the boroughs. He did think the Amendment proposed would meet the difficulty; he should therefore suggest that the clause should pass as it stood, but that another clause should be brought up to put a stop to the practice, which was a most objectionable one and opened the door to a great deal of corruption. It was desirable, for their own sakes, to limit as much as possible the expense of elections, and that object was quite within the scope and meaning of the Bill.

MR. WALPOLE said, it ought to be clearly understood that the treating they were going to punish in that way was corrupt treating. He understood his right hon. Friend the Member for Droitwich (Sir J. Pakington) was willing to withdraw his Amendment, provided that the word "corrupt" should be placed at the commencement, or so as to govern the whole clause. He thought that would enable them to pass the clause as it stood but for one or two questions which had been raised, which could not be properly discussed without further notice—namely, the questions of travelling expenses and refreshment tickets. The question of travelling expenses should be settled in a clause by itself, and the House ought to have full notice of its introduction. The question of refreshment tickets, if the law was to be settled on that subject, had better be discussed in the House after full notice.

THE ATTORNEY GENERAL said, he was quite willing that the word "corruptly" should be transferred from the middle to the commencement of the clause, and he would consent to the alteration on the understanding that the sense of the House should be taken upon the question of refreshment tickets, and with the proviso that, should it not be carried, it should

not be considered unfair on his part, upon the bringing up of the Report, to move to strike out the word "corruptly."

SIR FITZROY KELLY said, he quite approved of the course proposed by his hon. Friend (Mr. Walpole), and consented to by the hon. and learned Attorney General; but he would suggest, in addition to the clause with respect to the refreshment tickets, that the question of travelling expenses should be distinctly raised for the opinion of the House, so that they might be declared to be either legal or illegal. The question was, no doubt, much more important to counties than boroughs, although they, to some extent, were interested, for it often happened that men would go from Northumberland to Cornwall to vote. He hoped, therefore, some other hon. Gentleman would give notice of his intention of raising that question, and he trusted that the law upon this important subject would be settled.

Amendment, by leave, *withdrawn*.

MR. VINCENT SCULLY said, he would suggest that the wording of the first portion of the clause should be uniform with the preceding clauses, it being the same in effect.

MR. THORNELLY said, he must protest against the payment of travelling expenses, and supplying refreshment tickets, which he considered would do infinite mischief and lead to great corruption. In fact, he considered if such a principle were affirmed by the Bill, it would do more harm than good. It was the duty of constituents to go to the poll as they went to fairs and markets, and if they did not choose to go at their own expense, they ought to remain at home.

MR. BARROW said, he would never consent to a course which would practically disfranchise a large portion of his constituents, who, unless their reasonable travelling expenses were paid, would be unable to attend to give their votes. It was all very well for rich farmers, who might have friends to give them dinners after they had gone to the poll, but it was not so with the poorer class of constituents.

SIR JOSHUA WALMSLEY said, there were 36,000 electors in the West Riding of Yorkshire, and, taken at 2s. per head for refreshment, to say nothing of the cost of conveying them to the polling places, the whole would amount to such a sum as to deter any but wealthy men from seeking to represent the place.

MR. BECKETT DENISON said, the election of 1807 for the West Riding cost 250,000*l.*, that of 1826 cost 170,000*l.*, and of late it had been reduced to about 14,000*l.* It was rather curious that the Gentlemen most anxious to put down bribery and corruption were those who represented close boroughs. He believed all the county Members in the kingdom were desirous of putting down these practices. They were aware that corruption existed in the boroughs; but all that was sought to be done was to give a reasonable amount of refreshment to those electors who came a distance. He did think that men giving up a day's work, and coming a distance to vote, were entitled to something—if only a crust of bread and cheese. In boroughs men were not required to go any distance, and therefore their case could not be compared with counties.

MR. W. J. FOX said, he had stood three elections for the borough which he represented, and they had not cost him three shillings. He believed that the new boroughs enfranchised by the Reform Bill had all started pure, but had been demoralised by the machinery of corruption in the hands of wealthy men. Remove the machinery, and he believed that the practice would soon disappear. If hon. Gentlemen would give them the ballot, he should have no objection to two-shilling refreshment tickets, or even fifty-shilling tickets. At a late election in America, the candidates started on what he was sorry to say was called the English principle, namely, that of tapping barrels of ale, and everything went off gloriously to the close, when it was found that the electors had all voted against the treating candidates.

MR. W. WILLIAMS said, that the hon. Member for the West Riding who sat on that side of the House had spent no money in two-shilling tickets at his election.

Clause, as amended, *agreed to*.

Clause 5 (Undue influence defined).

MR. MALINS said, he thought the clause would be more distinct and would better meet the views of the country, if the word "spiritual" be coupled with "temporal" as to undue influence. He would, therefore, propose the insertion of the word "spiritual" in the 41st line between the words "loss" and "or." He need scarcely remind the Committee of the denunciations from the altar during the last general election by the Romish priesthood

in Ireland. The rites of the Church were denied to those who should dare to vote in opposition to the commands of their clergy. On that ground he was of opinion that the words should not be limited to harm or loss of a temporal nature.

MR. SPOONER seconded the Motion.

Amendment proposed, in page 4, line 41, after the words "injury, damage, harm, or loss," to insert the words "temporal or spiritual."

Question put, "That those words be there inserted."

The Committee *divided*:—Ayes 26; Noes 125: Majority 99.

MR. H. BERKELEY said, he could not allow this clause to pass without expressing his belief that it would be perfectly abortive so far as the prevention of intimidation was concerned, while, at the same time, it might open the door to great injustice. For instance, supposing a landlord were to give notice to quit to one of his tenants, the tenant would have a right of action against him for so doing, if it happened that his landlord had before that canvassed him, and he had voted against his landlord's wishes. The same would be the case with regard to tradesman and customer, supposing that the customer were to cease dealing with a tradesman whom he had formerly canvassed, and who had voted against his desire. At the same time, however, he must say that the difficulty of procuring evidence necessary to connect cause and effect in such cases would render the clause almost inoperative. For instance, how would it apply in such a case as the following:—Not long ago a constituent of his, a greengrocer at Bristol, told him that in the course of the late election he had been requested by a customer of his, a large hotel keeper, to vote for Mr. M'Geachy, the Conservative candidate. To this he replied that he had always been a Liberal, and meant to vote, as usual, for the Liberal candidates. The hotel keeper then asked him to split his vote for Mr. Berkeley and Mr. M'Geachy. When the polling day came, down came a fly from the hotel keeper to carry him to the poll, but the greengrocer had already taken himself off there, and had duly recorded his vote for Berkeley and Langton, the Liberal candidates. Soon after he called at the hotel, expecting an order as usual for potatoes and cabbages, but, instead of that, he received a peremptory order to quit the premises, coupled with a strong hint that if he didn't he would be kicked out. He

was told, too, never to trouble himself to call again, for his bill would be paid at once, and all future dealing with him stopped. How, he asked, would this clause deal with a case of that sort? He contended that the clause would be perfectly inoperative against the coercion of landlords or customers, and that it would fail entirely to check that election "screw" which was the great curse of the existing electoral system. He was satisfied that this clause would not prevent the cases of intimidation which were now so general, and he considered that he was entitled to protest against attempts to deal with the question in this manner, because that House had thought fit, in direct opposition to the opinion of 200 representatives of the people, of one-half the Members of Her Majesty's Government, and of the great majority of the country, to reject the measure he had proposed with the object of repressing the exercise of undue influence at elections.

MR. VERNON SMITH said, he objected to that portion of the clause which rendered liable to punishment persons who, by "any fraudulent device or contrivance," interfered with the free exercise of the franchise of any voter. He considered that the phrase might be applied to every minute interference, such as the harmless hoaxes sometimes resorted to of inducing voters to go into other counties by invitations to pretended entertainments or festivities, in order to prevent them from giving their votes. He thought, if people were foolish enough to be duped in this manner, that it was rather below the dignity of legislation to interfere for their protection. He would also suggest that the clause did not contain any provision with regard to the votes which were given under undue influence. If these votes were left upon the poll, although persons who exercised intimidation might be punished, the candidate in whose behalf intimidation was practised would still derive the advantage of the votes given under such influence. He considered that they ought to provide that all votes given under intimidation should be invalid.

MR. WALPOLE said, he thought it was important that the words to which the right hon. Gentleman referred should be retained. The main object of the clause was to guard the free exercise of the franchise, and he could not conceive that any interference, by fraudulent devices or contrivances, with the free exercise of that

right could be regarded as a harmless hoax. The right hon. Gentleman's other proposal for expunging votes obtained by proved acts of undue influence was, however, quite unobjectionable.

MR. VERNON SMITH said, he would then move that at the end of the clause which defines the various acts that shall constitute the "offence of undue influence," and provides that persons committing it shall be guilty of a misdemeanor, and shall be liable to forfeit the sum of 50*l.* to any person who shall sue for the same, words be added to the effect that votes so given shall be of no effect.

Another Amendment proposed, in page 4, at the end of the Clause, to add the words "and the Vote so given shall be utterly void and of none effect."

MR. WHITESIDE said, he wished to know what would be the bearing of the clause upon clerical intimidation? He put the question because the Committee which tried the Sligo election came to a Resolution that there had been an exercise, on the part of the Roman Catholic priesthood, of an influence inconsistent with their duties as ministers of religion, and destructive of the independence of the voters. He wished to know if this clause would apply to such cases as that?

LORD JOHN RUSSELL said, he was sorry that his hon. and learned Friend the Attorney General was not then present, to give the hon. and learned Member opposite a more distinct answer than he himself could do; but he should think the words in the clause, "who shall in any other manner practise intimidation upon or against any person," would apply to such acts as were alleged to have been committed, in some instances, by Roman Catholic priests.

MR. WALPOLE said, that the hon. and learned Attorney General and the hon. and learned Member for East Suffolk (Sir F. Kelly) were both of opinion that the spiritual intimidation to which the hon. and learned Member for Enniskillen (Mr. Whiteside) had referred would be reached by this clause, if such intimidation was exercised through any act, such as the denial of the Sacrament, or of any of the offices of the Church.

MR. HILDYARD said, he considered that a vote given under undue influence, as well as a vote given in consequence of bribery or treating, ought to be declared null and void, and he believed that nothing would more tend to prevent intimidation

than the knowledge that the votes obtained by it would be valueless.

MR. NEWDEGATE said, there were cases in which places were kept in a state of positive consternation during elections by organised mobs, which were more dangerous by the facilities afforded by railway companies. In some of these cases a thousand men were thrown upon a town to overawe the voters going to the poll. In such a case the Amendment would be operative, and the suggestion of the right hon. Gentleman (Mr. Vernon Smith) was, therefore, extremely valuable, especially as elections now would be confined to one day.

COLONEL BLAIR said, that in Scotland the very disgusting practice of spitting upon the voters as they went to the poll prevailed—so much so that it was often difficult to tell the colour of a man's coat who had been subjected to this insult. This clause inflicted a fine of 50*l.*, which, considering that the offence to which he had referred was generally committed by boys, hounded on by older persons, was hardly a suitable mode of checking the beastly practice in question. He would suggest that a good flogging would be a very fit punishment for such offenders.

THE LORD ADVOCATE said, the clause did not render it compulsory to inflict the whole amount of the fine; and, besides, the alternative of imprisonment was contained in its language. If, however, the hon. and gallant Member wished to level a special penalty at the particular kind of intimidation to which he had adverted, he ought to propose a clause of his own for the purpose.

LORD JOHN RUSSELL said, it appeared to him that it would tend to very great confusion if these words were now inserted. Cases of bribery and treating could easily be substantiated by proof; but he was afraid they would have a host of very doubtful questions raised as to how far a man might have been intimidated to give the vote he had recorded. If, indeed, a person were convicted of intimidation and undue influence, and certain voters were pointed out and proved to have been so influenced and intimidated, there might be some propriety in disfranchising such voters; but if persons could come to that House with an election petition and say that the election had been gained by undue influence, and there being evidence of the agent of some landlord having said that he hoped the tenants would all vote according

to the wishes of their landlord, and if it were shown that customers had said to their tradespeople that they hoped they would give their votes in a particular way, why they might go on with such cases, and strike off vote after vote *ad infinitum*, and a state of things would result that would be attended with the most injurious consequences.

Question put, "That those words be there inserted."

The Committee divided:—Ayes 63; Noes 132: Majority 69.

Clause agreed to; as were also Clauses 6 to 9 inclusive.

Clause 10 (Electors not to be paid for services at elections).

MR. EVELYN DENISON said, if a candidate paid even any sum of money to his attorney, who might be an elector, he would violate the provisions of the Act, and do that which, by this clause, would render him exposed to a fine of 100*l.* for a misdemeanor. Now, this clause would necessitate a candidate to have recourse to a low class of attorneys, because he could not employ either a counsel or an attorney, however respectable, connected with the district he might seek to represent. This, he considered, was carrying the principle of caution to a ridiculous and unnecessary extent, and he trusted this clause would not be persevered in.

MR. H. T. LIDDELL said, he had given notice of a clause in substitution of the proposed clause, which he thought would meet the objection of the hon. Gentleman. He wished to propose the following clause—

"That if any person shall, either during any election of a Member to serve in Parliament, or within six calendar months previous to such election, or within fourteen days after it shall have been completed, be employed at such election as counsel, agent, attorney, poll-clerk, flagman, or in any other capacity, for the purposes of such election, and shall at any time, either before, during, or after such election, accept or take from any such candidate or candidates, or from any person whatsoever, for or in consideration of or with reference to such employment, any sum or sums of money, retaining fee, office, place, or employment, or any promise or security for any sum or sums of money, retaining fee, office, place, or employment, such person shall be deemed incapable of voting at such election, and his vote, if given, shall be utterly void and of none effect, and shall render him liable to forfeit the sum of 50*l.* to any person who shall sue for the same, together with full costs of suit."

MR. PHINN said, the clause certainly went very much further than was either necessary or expedient; but it must be

recollected that very gross abuses under the old system prevailed. He would give an instance:—A candidate, on one occasion, engaged all the attorneys in the district as his agents. By this manœuvre he not only gained the votes of the attorneys, but the votes of all their friends, and thus the election was gained. It was to remedy similar abuses that the clause in question was framed. He must say, though he never had occasion to make use of the assistance of attorneys in his electioneering affairs, that it was tolerably well known the great source of expense to candidates was the expense of attorneys. He was, however, of opinion that the clause might be modified with advantage. He considered, however, that the penalty of 50*l.* was too small, as the advantages to the attorney in election proceedings made this amount a matter of small consideration. He thought it would be advisable to make any payment to attorneys, with votes, as agents, illegal, and if such attorney voted after receiving payment, he should be subjected to a penalty of 100*l.*

MR. ATHERTON said, he also thought the clause highly objectionable. Was it intended that the candidate should do his own work at an election? If so, let it be said at once; but, surely, that could not be the object of the clause. To employ an agent practically was to pay him, and for any practical use, an agent must be a man living on the spot. The clause prohibited the employment of any man who could be of the slightest use, and what would be the consequence? Some stranger would be employed—a “man in the moon,” who came from a distance—and the evil would be increased rather than remedied. He was willing that an agent should be prohibited from voting. He approved of the suggestion of the hon. Member for Liverpool (Mr. Liddell), and that the object of this clause would be attained by making the voting of paid agents penal.

LORD JOHN RUSSELL said, this clause was not originally in the Bill. All he proposed in the original clause was to prevent more effectually than was now done by law the influence of attorneys and agents. The statement made by the hon. Gentleman who had just spoken was perfectly true as to the utility of having an agent on the spot. If an attorney was prevented from acting, some one else would be provided—perhaps his assistant, whether his son or junior partner. He was, therefore, inclined to go back to the ori-

ginal clause, and perhaps the best way would be to strike out the clause now, and have one brought up at a future stage.

MR. CRAWFORD said, he saw the clause in the Bill with much satisfaction; for he was satisfied until lawyers were prohibited from doing anything at all at elections, the evils sought to be remedied would never be abated. It was the attorneys who had all the influence, and who put the screw on electors. He thought that candidates ought to be able to do entirely without attorneys, and when this was the case, he was certain that electioneering corruption and intimidation would cease, but not till then.

MR. WALPOLE said, the clause proposed to operate on attorneys who exercised influence in a double capacity on the vote of an elector. In the first place he could exercise a direct influence at the time of election, and in the other he could exercise influence where there was no election by the acquaintance he had with the affairs of the voter. By means of this knowledge he could speculate at an election time on the voter. But the clause would be practically of no avail, for, at the time of an election, the attorney would act through some relative or clerk, and when an election was going on, the clause would not operate at all. So, therefore, the two great evils the clause was intended to cure would not be reached at all. The clause had been much discussed in the Select Committee. It was carried, however, by the perseverance of the hon. Member for Manchester (Mr. Bright). He (Mr. Walpole) was doubtful of the expediency or effect of the clause, and he apprehended it would not pass the House. He thought, however, that every evil the clause was intended to remedy would be remedied by the clause of his hon. Friend (Mr. Liddell), which was to prohibit attorneys from voting who received money from a candidate.

MR. VERNON SMITH said, he did not object to the withdrawal of the clause, but regretted that the hon. Member for Manchester, who had introduced it to the Committee, was not in his place. The argument of the hon. Member was, that something ought to be done to prevent the enormous influence of attorneys in boroughs and counties; and he agreed with a further remark of his, that the employment of attorneys was the only legalised bribery in existence. Something ought certainly to be done to meet this evil, though he would not insist upon the exact words of this clause.

Clause *struck out*.

Clause 11 (No cockades, ribands, or other marks of distinction to be given at elections).

MR. HEADLAM said, that the clause only rendered liable to penalties any "person to be hereafter elected." Supposing, however, that a candidate who gave away these badges was not elected, he would be held to have committed no crime whatever, and might give away as many cockades as he liked. Instead, therefore, of the words "No person to be hereafter elected," he should propose the insertion of the words—"No candidate before, during, or after any election, in regard to such election."

Amendment *agreed to*.

MR. BOOKER said, he should move the rejection of the clause. He thought the time was come to ask whether or not we were to have popular elections, and were to appeal to the people on popular principles. The whole thing seemed so absurd, and so totally at variance with popular elections, and with all that to which the people had been accustomed at elections, that if only one Member voted with him he should divide the Committee against the clause.

MR. AGLIONBY said, his idea of what constituted a popular election was as much opposed to that of the hon. Member's definition as it was possible to be. He wished to ask whether there would be any objection to raise again the question in regard to that intolerable nuisance at elections—flags and banners? He would like to know whether this point had been considered in the Committee.

MR. WALPOLE said, that since the House had deliberately upon two occasions had this question before it, and had rejected the proposition, the Committee thought it was hardly within their province to insert a clause upon the subject in the present Bill. As to the clause now under discussion, it did not prevent the use of cockades and favours, but it only prevented the candidates from giving these or other marks of distinction, which was no new principle. He therefore hoped the hon. Member for Herefordshire (Mr. Booker) would not divide the Committee.

Clause *agreed to*.

Clause 12 (Voters not liable to serve as special constables.)

MR. SOTHERON said, he wished to ask, supposing a disturbance arose during an election, why a voter should not be compellable to serve in order to quell it?

MR. WALPOLE said, he thought the reason was obvious—namely, that no special constable sworn in to keep the peace on such an occasion ought to be a political partisan.

MR. MILES said, that in some of the small boroughs almost all the respectable inhabitants were voters. It was notorious that election riots did not originate among the electors and respectable men, but among the non-electors, and people coming into the town from a distance. The respectable men, who were also voters, were just those who ought to be special constables.

LORD JOHN RUSSELL said, that, if an elector were willing to serve as a special constable, this clause did not prevent him from doing so; it only enacted that he should not be "liable or compelled to serve."

THE ATTORNEY GENERAL said, that the provision contained in this clause was only a re-enactment of one which was contained in the 7 & 8 Geo. IV. c. 37.

Motion made, and Question put, "That the Clause stand part of the Bill."

The Committee *divided*:—Ayes 184; Noes 39: Majority 145.

Clause *agreed to*.

Clause 13 (Recovery of Penalties).

SIR JOSHUA WALMSLEY said, he wished to move an Amendment with a view to render the penalties imposed under this Act recoverable in the county court of the district where the offence was committed, as well as in the superior courts. He thought it would be most salutary that the proceedings in cases of this kind should be conducted in the locality in which the voter resided, because by that means the force of public opinion would be brought to bear upon the offender in the most direct manner. He had been induced to move this on account of the communications he had received on the subject, and from a belief that if constituencies had any easy and cheap mode by which they could punish bribery, they would do more to put down such an offence than the Legislature could.

MR. PHINN said, he objected to the Amendment, which he said had been deliberately considered in, and rejected by, the Select Committee. He thought it was very desirable that there should be a little delay—a little time for consideration—in the bringing of actions of this penal character. If this Amendment were agreed to, a host of actions of this kind were sure to be brought after contested elections, where

party feeling had run high. The result would be that this measure would be made the instrument of oppression, that party animosity would be perpetuated, and that the county courts would be brought into disrepute. The Committee should remember that the proceedings under this clause involved, not only the recovery of penalties, but the disfranchisement of offending electors.

MR. CRAUFURD said, that a precedent for the Amendment was furnished by the Customs Act of last year, which made penalties for offences against the revenue laws, to the amount of 100*l.*, recoverable in the county courts.

MR. WHITESIDE said, he thought it would be most undesirable to invest tribunals like the county courts with the power of trying the delicate and difficult questions that would arise under this Act. He could not consent that a judge sitting without a jury, and uncontrolled by the presence of an efficient bar, should be invested with the power of deciding questions involving the right of an elector to retain his vote.

MR. J. G. PHILLIMORE said, he also objected to the Amendment, and trusted that it would be withdrawn.

MR. ATHERTON said, he was of opinion that every facility should be afforded for the enforcement of penalties, but at the same time it was of the utmost importance that in questions of this description the tribunal appealed to should be viewed with respect by all parties, and that might not be the case with regard to county courts in the existing actions to which this clause referred. He should, on that ground, oppose the Amendment.

MR. HADFIELD said, he thought that the object of the whole Bill would be defeated if facilities were not given for the recovery of the penalties. No one would encounter the expense and delay of bringing an action in the courts at Westminster. He thought the Committee would do well to adopt this Amendment, as the heaviest blow that could be aimed at bribery.

MR. W. J. FOX said, he thought that, if the county courts were so little entitled to respect, they ought not to be intrusted with the cases which were now brought before them, for, although the amount to which their jurisdiction was limited was comparatively small, still the question of justice was of as much interest as in the case of larger sums. With regard to the objection that the excitement attendant upon elections would be prolonged, if it

held good at all, it was equally applicable to the Bill as it at present stood. The Bill went, to some extent, upon the principle of working upon the feeling of shame, and it would be more effective if the cases were decided in a local court. He should, therefore, support the Amendment.

LORD JOHN RUSSELL said, he must object to the Amendment. There was no appeal from the county courts but in exceptional cases. When cases of magnitude were brought before the Courts of Exchequer, there was a power of appeal. He thought it would be very inexpedient to give to the county courts a superior power, particularly on questions on which great excitement must necessarily exist.

*Amendment negatived.*

MR. HENLEY said, he wished to inquire how the costs of prosecutions were to be paid. He thought they ought to be paid out of the Consolidated Fund, and not out of the county rates.

LORD JOHN RUSSELL said, it was intended that the costs should be paid out of the Consolidated Fund.

*Clause agreed to ; as were also the remaining clauses.*

House resumed ; Committee report progress.

#### STANDARD OF GOLD AND SILVER WARES BILL.

Order for Second Reading read.

MR. HENLEY said, he begged to ask the right hon. Gentleman who had charge of this Bill—the object of which appeared to be to stamp as gold something not much better than brass—to explain the reason he had for introducing it, and to what point he intended to reduce the standard.

MR. CARDWELL said, by the law of this country, as it now stood, no article of gold manufacture could be sold of a lower standard than eighteen carats fine. There was a very valuable trade in watch-cases of that standard, but there was a large and increasing trade in the world in watch-cases of a lower standard of fineness ; and very great complaint was made by the manufacturers of Birmingham, Coventry, and Liverpool, of their being shut out from a participation in this trade by the restriction to which he had referred. They were anxious, therefore, for such a change of the laws as would admit of articles being manufactured of a lower standard, which should be stamped so as to show the exact quantity of fineness, and sold for what they really were. This request appeared to him

to be reasonable; and with regard to the question which the right hon. Gentleman had put to him, as to what was the standard to which he intended to descend, he would observe that he believed the greater part of the trade to which he had referred was in articles of ten carats fine; and as the object was to put such a stamp upon the article as would show exactly what it was worth, so that there could be no fraud upon the public, he saw no reason why they should not descend to twelve, or even ten carats, which he believed was the lowest standard of which such articles were manufactured.

MR. HADFIELD said, he begged on the part of his constituents to thank the right hon. Gentleman for introducing the Bill, which would prove very beneficial to the watch-case trade.

MR. THOMSON HANKEY said, he had been requested by the great body of the gold manufacturers of the metropolis to say that they entirely disapproved of this Bill, and that they considered it would drive the respectable trade away from England if articles were allowed to be manufactured and sold as gold which in point of fact were only one-third gold. They were of opinion that the high character of the gold manufacture of this country was owing to the high standard which the manufacturers were obliged to maintain, and that if that standard were to be lowered the trade in watch-cases would be driven away to Geneva. He understood that the object was to enable certain manufacturers of Liverpool and Birmingham to manufacture lower classes of goods, in order to compete with America, where there was no standard at all.

MR. ELLICE said, he believed that the hon. Member who last addressed the House spoke the sentiments of certain London monopolists, who supposed, mistakenly however, that they derived advantage from the present state of the law. It was supposed that the watch trade would have suffered from the establishment of free trade, instead of which it had wonderfully increased since that era. The trade was in a progressive state of improvement, but his constituents complained that they were obliged to send the works they manufactured to America or France, in order that they might be put into cases made in those countries of a lower standard than was legal in England. Why this restriction should be put upon the trade was to him a matter of absolute mystery. The fact

*Mr. Cardwell*

was, that small watch-cases could not be made of gold at eighteen carats fine. The gold was too ductile. But, in asking to be allowed to make watch-cases at a lower standard, it was not sought to deceive the public. All that was asked was, that the number of carats should be stamped; that there should be appropriate marks for eighteen carats, fourteen carats, or twelve carats, as the case might be.

Bill read 2<sup>o</sup>.

#### REFORMATORY SCHOOLS (SCOTLAND) BILL.

Order for Committee read.

MR. MAGUIRE said, he should move that the Chairman report progress, because he considered that this Bill was part and parcel of the system of proselytising which it was sought to put in practice in Scotland. There were 250,000 Roman Catholics in that country, and their religious rights ought to be protected.

THE LORD ADVOCATE said, he hoped his hon. and learned Friend (Mr. Dunlop) would be allowed to proceed with the Bill; the object of it was to remove the outcast children from the streets, after they were taken up; if any relative or guardian gave security they would be discharged.

MR. LUCAS said, he could not allow the Bill to proceed. He had suggested certain amendments to the proposer to guard against its proselytising tendencies, but they were rejected. Since the division on the Middlesex Industrial Schools Bill, they had a right to look on that House as pledged to a proselytising course, which they should resist by every means in their power. One Amendment he had suggested was, that the religion of every child should be registered. A clause was inserted in the Middlesex Industrial Schools Bill to that effect, but it had been thrown out by the Lords. Now, a registry was the only protection for the religious rights of these wretched beings, but it was refused, because it was intended to trample on their religious rights, because that House was determined that the Catholics of this country should have no rights; it was part of the system of their aggression against their religious rights and liberties which they witnessed every night in that House. He had proposed three Amendments: first, that every school should state whether it was intended for all denominations or for one only; second, that a child should be sent to the school of his

own denomination, if there was one in the locality; and third, that schools for all denominations should have a code of rules approved by the Secretary of State. These were the securities he asked for the religion of the children; they were refused; if an equivalent was offered he would accept it; but unless some security was given it would be better for the children that they were still in the streets than in these schools. It was because he believed that the moral nature of the children sent to such institutions as that presided over by Dr. Guthrie would be more perverted than it would be if they were left in the streets, that he opposed the present Bill. He did not expect that the Committee would agree with him in that; but he trusted they would at least support his Amendments.

MR. J. O'CONNELL said, he could not consent to the further progress of this Bill at so late an hour, and would take all the means in his power to prevent it which the forms of the House allowed. There

had been an undertaking to introduce a clause which would meet the views of the Roman Catholic Members on the subject, but which had never been brought forward, and he therefore gave notice that he would bring up such a clause. He considered the decision the other day a most tyrannous one, and a vote which inspired him with the greatest dread as to the future proceedings of the Government.

MR. DUNLOP said, that seeing it was the intention of hon. Members to obstruct the further progress of the Bill that evening, he would reluctantly consent to postpone the Committee, as he could see no use in attempting at that time to proceed with it.

MR. BRADY said, he would warn the House against proceeding with the persecuting system which had recently been commenced, and which they might one day see cause to regret.

House resumed. Committee report progress.

The House adjourned at a quarter after Two o'clock.



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### VOLUME CXXXIV.

BEING THE FIFTH VOLUME OF SESSION 1854.

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1R. 2R. 3R. First, Second, or Third Reading.—*Amend.*, Amendment.—*Res.*, Resolution.—*Com.*, Committee.—*Re-Com.*, Re-committal.—*Rep.*, Report.—*Adj.*, Adjourned.—*cl.*, Clause.—*add. cl.*, Additional Clause.—*neg.*, Negatived.—*l.*, Lords.—*c.*, Commons.—*m. q.*, Main Question.—*o. q.*, Original Question.—*o. m.*, Original Motion.—*p. q.*, Previous Question.—*r. p.*, Report Progress.—*A.*, Ayes.—*N.*, Noes.—*M.*, Majority.—*1st Div.*, *2nd Div.* First or Second Division.

When in the Text or in the Index a Speech is marked thus \*, it indicates that the Speech is reprinted from a Pamphlet or some authorised Report.

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